

AMENDED IN SENATE JULY 23, 2009

CALIFORNIA LEGISLATURE—2009—10 FOURTH EXTRAORDINARY SESSION

ASSEMBLY BILL

No. 9

Introduced by Assembly Member Evans

July 2, 2009

~~An act relating to the Budget Act of 2009.~~ *An act to amend Sections 95004, 95014, and 95020 of, and to add Section 95021 to, the Government Code, to amend Sections 4648, 4648.1, 4659, 4677, 4685, 4686, 4689, 4784, and 7502.5 of, to amend the heading of Chapter 4 (commencing with Section 4570) of Division 4.5 of, to amend and repeal Sections 4418.1 and 4570 of, and to add Sections 4435, 4571, 4648.35, 4648.5, 4648.6, 4686.2, 4686.5, 4688.1, 4688.2, 4688.3, 4689.05, and 4692 to, the Welfare and Institutions Code, relating to public social services, and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

AB 9, as amended, Evans. ~~Budget Act of 2009.~~ *Developmental services.*

Existing law, the California Early Intervention Services Act, provides a statewide system of coordinated, comprehensive, family-centered, multidisciplinary, and interagency programs that are responsible for providing appropriate early intervention services and support to all eligible infants and toddlers, as defined, and their families. The act requires these services to be provided pursuant to the existing regional center system under the Lanterman Developmental Disabilities Service Act, and further requires the regional centers to comply with that act and its implementing regulations, as specified.

This bill additionally would require a family's private insurance for medical services or a health care service plan identified in the

individualized family service plan to be used in compliance with applicable state law and regulation, except for specified purposes.

The California Early Intervention Services Act requires an eligible infant or toddler receiving services under the act to have an individualized family service plan (IFSP). The plan is required to be in writing and to address specified issues, including a statement of the specific early intervention services needed to meet the unique needs of the infant or toddler.

This bill would revise the definition of an eligible infant or toddler for purposes of eligibility for services. The bill would also revise the contents of the individualized family service plan, including, commencing July 1, 2009, requiring the development, review, or modification of an individualized family service plan to consider certain group training and preschool activities and would make related changes. The bill would prohibit regional centers from purchasing nonrequired services, as defined, except durable medical equipment.

This bill would, effective July 1, 2009, require any vendor of applied behavioral analysis services or intensive behavioral intervention services, as defined, under either the California Early Intervention Services Act or the Lanterman Developmental Disabilities Services Act to conduct a behavioral assessment of each infant or toddler to whom the vendor provides these services and design an intervention plan for the child. The regional center would be required to purchase these services, subject to prescribed limitations.

This bill would also require the State Department of Developmental Services to establish a prevention program for at-risk babies, as defined, under which intake, assessment, case management, and referral to generic agencies, as defined, would be provided. Each regional center would purchase or provide services under the program pursuant to its allocation from the department.

Under existing law, the Lanterman Developmental Disabilities Services Act, the State Department of Developmental Services is responsible for providing various services and supports to individuals with developmental disabilities, and for ensuring the appropriateness and quality of those services and supports. Existing law requires that life quality assessments be conducted with consumers served by private nonprofit regional centers, pursuant to specified criteria.

This bill would, instead, require the State Department of Developmental Services to implement an improved, unified quality assessment system, on or before January 1, 2010. It would require the

department to identify a valid and reliable quality assurance instrument that includes assessments of consumer and family satisfaction, provision of services, and personal outcomes. The bill would require the department to contract with an independent agency or organization for this purpose. Implementation of these provisions would be subject to an annual appropriation of funds in the Budget Act.

Under existing law, the department contracts with the regional centers to provide services and supports to persons with developmental disabilities. The services and supports to be provided to a regional center consumer are contained in an individual program plan (IPP), developed in accordance with prescribed requirements. These services and supports may include transportation services.

This bill, effective July 1, 2009, would impose various requirements relating to the funding of transportation services, at the time of the development, review, or modification of a consumer's IFSP or IPP, as specified.

Existing law permits a regional center to purchase, pursuant to vendorization or contract, services and supports for the consumer from any individual or agency that the regional center and the consumer or, where appropriate, his or her parents, legal guardian, conservator, or authorized representative determine will best accomplish all or any part of the consumer's IPP. Under existing law, the regional center and the consumer or, where appropriate, his or her parents, legal guardian, conservator, or authorized representative are required, pursuant to the IPP, to consider specified factors when selecting a provider of services and supports, including the cost of providing services and supports of comparable quality by different providers, if available.

This bill would, except as prescribed, require the least costly available provider of comparable services that is able to accomplish all or part of the consumer's IPP, consistent with the particular needs of the consumer and family, as identified in the IPP, to be selected.

The bill would also prohibit, effective July 1, 2009, a regional center from purchasing experimental treatments, therapeutic services, or devices that have not been clinically determined or scientifically proven to be effective or safe or for which risks and complications are unknown. It would delay application of this prohibition for persons receiving these services on July 1, 2009, until August 1, 2009.

The bill would require a regional center to annually provide to the consumer and his or her parents, legal guardian, conservator, or legal

representative a statement of services and supports that the regional center purchased, for the purpose of ensuring that they are delivered.

Existing law contains various requirements pertaining to the responsibilities of the department and regional centers concerning the monitoring of consumers in health and residential care facilities.

This bill would, effective July 1, 2009, provide that a regional center shall not be required to perform triennial evaluations of specified community care facilities.

This bill would, effective July 1, 2009, with specified exceptions, prohibit a regional center from newly vendoring a 24-hour residential care facility licensed by the State Department of Social Services with a licensed capacity of 16 or more beds.

Existing law requires a regional center to identify and pursue all possible sources of funding for consumers, including governmental or other entities or programs required to provide or pay the costs of providing services.

This bill would require that the department, in consultation with stakeholders, develop an alternative service delivery model that provides an Individual Choice Budget for obtaining quality services and supports that provides choice and flexibility within a finite budget that, in the aggregate, reduces regional center purchase of service expenditures, reduces reliance on the General Fund, and maximizes federal financial participation. The bill would, effective July 1, 2009, prohibit a regional center from purchasing specified services pending implementation of the Individual Choice Budget, except that an exemption from this prohibition may be granted under prescribed circumstances.

The bill would also, effective July 1, 2009, impose restrictions on the amount of respite services that may be purchased for a consumer, except that a regional center may grant an exemption from these restrictions under prescribed circumstances. This respite service provision would be repealed upon the occurrence of prescribed conditions relating to the implementation of the Individual Choice Budget.

This bill would, effective July 1, 2009, and except as prescribed, provide that a regional center shall not purchase any service that would otherwise be available from prescribed publicly funded program, private insurance, or a health care service plan when the consumer or family meets the criteria of that coverage but chooses not to pursue that coverage.

The bill would also, effective July 1, 2009, and except as prescribed, prohibit a regional center from purchasing medical or dental services

for a consumer 3 years of age or older from the Medi-Cal program private insurance, or health care service plan unless the regional center is provided documentation of a Medi-Cal, private insurance, or health care service plan denial appeal is being pursued, and the regional center makes a specified determination regarding the appeal.

Existing law requires the Director of Developmental Services to establish, annually review, and adjust as needed, a schedule of parental fees for services received through the regional centers. Under existing law, adjustment of the parental fees by the department is subject to the approval of the State Council on Developmental Disabilities.

This bill would revise the provisions relating to parental fees, by, among other things, exempting the July 1, 2009, parental fee adjustment from approval by the State Council on Developmental Disabilities and providing for additional factors to be used in determining the fee adjustment.

Existing law authorizes an in-home respite worker, as defined, to perform gastrostomy care and feeding of regional center clients, after completing designated training.

This bill would expand these provisions to include colostomy, ileostomy, and urinary catheter care, and would refer to these services collectively as incidental medical services. The bill would revise applicable training requirements, and would provide for specified wage increases for in-home respite agencies and staff providing incidental medical services.

Existing law requires the department and regional centers to ensure that supported living arrangements for adults with developmental disabilities are made available, as specified.

This bill would revise the provisions relating to supported living arrangements by, among other things, setting forth the circumstances under which a regional center would make rent, mortgage, or lease payments or household expenses, as defined, for a consumer.

Existing law provides for the In-Home Supportive Services (IHSS) program, under which qualified aged, blind, and disabled persons receive services enabling them to remain in their own homes.

This bill would prohibit a regional center from purchasing supportive services under the IHSS program for a consumer who meets the criteria for the program, but declines to apply for those services, unless the regional center director waives this provision, as specified, and documents this waiver in an addendum to the consumer's IPP.

This bill would require the department and the State Department of Health Care Services, jointly, to seek a Medi-Cal program state plan amendment from the federal government to expand federal financial participation for services to persons with developmental disabilities provided by regional centers.

Existing law requires the Director of Developmental Services to establish, maintain, and revise, as necessary, an equitable process for setting rates of state payment for nonresidential services purchased by regional centers, and authorizes the director to promulgate implementing regulations.

This bill, effective July 1, 2009, would prohibit regional centers from compensating designated nonresidential service programs for providing any service to a consumer on any of a list of holidays specified in the bill, with the department authorized to adjust these holidays through a program directive.

Existing law prohibits the total number of developmental center residents in the secure treatment facility at Porterville Developmental Center from exceeding 297.

This bill would include residents receiving services in the center's transition treatment program for purposes of this limit.

This bill would require the department to provide information to the Assembly Committee on Budget and Senate Committee on Budget and Fiscal Review during budget hearings for the 2010–11 fiscal year about the effect on the developmental service system of the specific cost containment measures implemented to achieve designated General Fund reductions for the 2009–10 fiscal year pursuant to a specified item of the Budget Act of 2009.

The bill also would require the department to continue to convene, as appropriate, a stakeholder review process to obtain information and comments about implementation of these cost containment measures and their effect on the developmental service system.

The California Constitution authorizes the Governor to declare a fiscal emergency and to call the Legislature into special session for that purpose. The Governor issued a proclamation declaring a fiscal emergency, and calling a special session for this purpose, on July 1, 2009.

This bill would state that it addresses the fiscal emergency declared by the Governor by proclamation issued on July 1, 2009, pursuant to the California Constitution.

This bill would declare that it is to take effect immediately as an urgency statute.

~~This bill would express the intent of the Legislature to enact statutory changes relating to the Budget Act of 2009.~~

~~The California Constitution authorizes the Governor to declare a fiscal emergency and to call the Legislature into special session for that purpose. The Governor issued a proclamation declaring a fiscal emergency, and calling a special session for this purpose, on July 1, 2009.~~

~~This bill would state that it addresses the fiscal emergency declared by the Governor by proclamation issued on July 1, 2009, pursuant to the California Constitution.~~

Vote: ~~majority~~^{2/3}. Appropriation: no. Fiscal committee: ~~no~~-yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 95004 of the Government Code, as
- 2 amended by Section 1 of Chapter 3 of the 3rd Extraordinary
- 3 Session of the Statutes of 2008, is amended to read:
- 4 95004. The early intervention services specified in this title
- 5 shall be provided as follows:
- 6 (a) Direct services for eligible infants and toddlers and their
- 7 families shall be provided pursuant to the existing regional center
- 8 system under the Lanterman Developmental Disabilities Services
- 9 Act (Division 4.5 (commencing with Section 4500) of the Welfare
- 10 and Institutions Code) and the existing local education agency
- 11 system under appropriate sections of Part 30 (commencing with
- 12 Section 56000) of the Education Code and regulations adopted
- 13 pursuant thereto, and Part C of the Individuals with Disabilities
- 14 Education Act (20 U.S.C. Sec. 1431 et seq.).
- 15 (b) (1) In providing services under this title, regional centers
- 16 shall comply with the Lanterman Developmental Disabilities
- 17 Services Act (Division 4.5 (commencing with Section 4500) of
- 18 the Welfare and Institutions Code, and its implementing regulations
- 19 (Division 2 (commencing with Section 50201) of Title 17 of the
- 20 California Code of Regulations) including, but not limited to, those
- 21 provisions relating to vendorization and ratesetting, and the Family
- 22 Cost Participation Program, except where compliance with those
- 23 provisions would result in any delays in, the provision of early

1 intervention, or otherwise conflict with this title and the regulations
2 implementing this title (Chapter 2 (commencing with Section
3 52000) of Division 2 of Title 17 of the California Code of
4 Regulations), or Part C of the Individuals with Disabilities
5 Education Act (20 U.S.C. Sec. ~~1431~~ *et seq.* 1431 *et seq.*), and
6 applicable federal regulations contained in Part 303 (commencing
7 with Section 303.1) of Title 34 of the Code of Federal Regulations.

8 *Notwithstanding any other law or regulation to the contrary, a*
9 *family's private insurance for medical services or a health care*
10 *service plan identified in the individualized family service plan,*
11 *other than for evaluation and assessment, shall be used in*
12 *compliance with applicable federal and state law and regulation.*

13 (2) When compliance with this subdivision would result in any
14 delays in the provision of early intervention services for the
15 provision of any of these services, the department may authorize
16 a regional center to use a special service code that allows immediate
17 procurement of the service.

18 (c) Services shall be provided by family resource centers that
19 provide, but are not limited to, parent-to-parent support,
20 information dissemination and referral, public awareness, family
21 professional collaboration activities, and transition assistance for
22 families.

23 (d) Existing obligations of the state to provide these services at
24 state expense shall not be expanded.

25 (e) It is the intent of the Legislature that services be provided
26 in accordance with Sections 303.124, 303.126, and 303.527 of
27 Title 34 of the Code of Federal Regulations.

28 *SEC. 2. Section 95014 of the Government Code is amended to*
29 *read:*

30 95014. (a) The term “eligible infant or toddler” for the
31 purposes of this title means infants and toddlers from birth through
32 two years of age, for whom a need for early intervention services,
33 as specified in the federal Individuals with Disabilities Education
34 Act (20 U.S.C. Sec. 1431 *et seq.*) and applicable regulations, is
35 documented by means of assessment and evaluation as required
36 in Sections 95016 and 95018 and who meet one of the following
37 criteria:

38 (1) Infants and toddlers with a developmental delay in one or
39 more of the following five areas: cognitive development; physical
40 and motor development, including vision and hearing;

1 communication development; social or emotional development;
2 or adaptive development. Developmentally delayed infants and
3 toddlers are those who are determined to have a significant
4 difference between the expected level of development for their
5 age and their current level of functioning. This determination shall
6 be made by qualified personnel who are recognized by, or part of,
7 a multidisciplinary team, including the parents. *A significant*
8 *difference is defined as a 33-percent delay in one developmental*
9 *area before 24 months of age, or, at 24 months of age or older,*
10 *either a delay of 50 percent in one developmental area or a*
11 *33-percent delay in two or more developmental areas. The age for*
12 *use in determination of eligibility for the Early Intervention*
13 *Program shall be the age of the infant or toddler on the date of*
14 *the initial referral to the Early Intervention Program.*

15 (2) Infants and toddlers with established risk conditions, who
16 are infants and toddlers with conditions of known etiology or
17 conditions with established harmful developmental consequences.
18 The conditions shall be diagnosed by a qualified personnel
19 recognized by, or part of, a multidisciplinary team, including the
20 parents. The condition shall be certified as having a high
21 probability of leading to developmental delay if the delay is not
22 evident at the time of diagnosis.

23 ~~(3) Infants and toddlers who are at high risk of having substantial~~
24 ~~developmental disability due to a combination of biomedical risk~~
25 ~~factors, the presence of which is diagnosed by qualified clinicians~~
26 ~~recognized by, or part of, a multidisciplinary team, including the~~
27 ~~parents.~~

28 (b) Regional centers and local educational agencies shall be
29 responsible for ensuring that eligible infants and toddlers are served
30 as follows:

31 (1) The State Department of Developmental Services and
32 regional centers shall be responsible for the provision of
33 appropriate early intervention services ~~in accordance with that are~~
34 ~~required for California's participation in~~ Part C of the federal
35 Individuals with Disabilities Education Act (20 U.S.C. Sec. 1431
36 et seq.) for all infants eligible under Section 95014, except for
37 those infants with solely a visual, hearing, or severe orthopedic
38 impairment, or any combination of those impairments, who meet
39 the criteria in Sections 56026 and 56026.5 of the Education Code,

1 and in Section 3030(a), (b), (d), or (e) of, and Section 3031 of,
2 Title 5 of the California Code of Regulations.

3 (2) The State Department of Education and local educational
4 agencies shall be responsible for the provision of appropriate early
5 intervention services in accordance with Part C of the federal
6 Individuals with Disabilities Education Act (20 U.S.C. Sec. 1431
7 et seq.) for infants with solely a visual, hearing, or severe
8 orthopedic impairment, or any combination of those impairments,
9 who meet the criteria in Sections 56026 and 56026.5 of the
10 Education Code, and in Section 3030(a), (b), (d), or (e) of, and
11 Section 3031 of, Title 5 of the California Code of Regulations,
12 and who are not eligible for services under the Lanterman
13 Developmental Disabilities Services Act (Division 4.5
14 (commencing with Section 4500) of the Welfare and Institutions
15 Code).

16 (c) For infants and toddlers and their families who are eligible
17 to receive services from both a regional center and a local
18 educational agency, the regional center shall be the agency
19 responsible for providing or purchasing appropriate early
20 intervention services that are beyond the mandated responsibilities
21 of local educational agencies *and that are required for California's*
22 *participation in Part C of the federal Individuals with Disabilities*
23 *Education Act (20 U.S.C. Sec. 1431 et seq.).* The local educational
24 agency shall provide special education services up to its funded
25 program capacity as established annually by the State Department
26 of Education in consultation with the State Department of
27 Developmental Services and the Department of Finance.

28 (d) No agency or multidisciplinary team, including any agency
29 listed in Section 95012, shall presume or determine eligibility,
30 including eligibility for medical services, for any other agency.
31 However, regional centers and local educational agencies shall
32 coordinate intake, evaluation, assessment, and individualized
33 family service plans for infants and toddlers and their families who
34 are served by an agency.

35 (e) Upon termination of the program pursuant to Section 95003,
36 the State Department of Developmental Services shall be
37 responsible for the payment of services pursuant to this title.

38 SEC. 3. Section 95020 of the Government Code is amended to
39 read:

1 95020. (a) An eligible infant or toddler shall have an
2 individualized family service plan. The individualized family
3 service plan shall be used in place of an individualized education
4 program required pursuant to Sections 4646 and 4646.5 of the
5 Welfare and Institutions Code, the individualized program plan
6 required pursuant to Section 56340 of the Education Code, or any
7 other applicable service plan.

8 (b) For an infant or toddler who has been evaluated for the first
9 time, a meeting to share the results of the evaluation, to determine
10 eligibility and, for children who are eligible, to develop the initial
11 individualized family service plan shall be conducted within 45
12 calendar days of receipt of the written referral. Evaluation results
13 and determination of eligibility may be shared in a meeting with
14 the family prior to the individualized family service plan. Written
15 parent consent to evaluate and assess shall be obtained within the
16 45-day timeline. A regional center, local educational agency, or
17 the designee of one of those entities shall initiate and conduct this
18 meeting. Families shall be afforded the opportunity to participate
19 in all decisions regarding eligibility and services.

20 (c) Parents shall be fully informed of their rights, including the
21 right to invite another person, including a family member or an
22 advocate or peer parent, or any or all of them, to accompany them
23 to any or all individualized family service plan meetings. With
24 parental consent, a referral shall be made to the local family
25 resource center or network.

26 (d) The individualized family service plan shall be in writing
27 and shall address all of the following:

28 (1) A statement of the infant's or toddler's present levels of
29 physical development including vision, hearing, and health status,
30 cognitive development, communication development, social and
31 emotional development, and adaptive developments.

32 (2) With the concurrence of the family, a statement of the
33 family's concerns, priorities, and resources related to meeting the
34 special developmental needs of the eligible infant or toddler.

35 (3) A statement of the major outcomes expected to be achieved
36 for the infant or toddler and family where services for the family
37 are related to meeting the special developmental needs of the
38 eligible infant or toddler.

(4) The criteria, procedures, and timelines used to determine the degree to which progress toward achieving the outcomes is being made and whether modifications or revisions are necessary.

(5) (A) A statement of the specific early intervention services necessary to meet the unique needs of the infant or toddler as identified in paragraph (3), including, but not limited to, the frequency, intensity, location, duration, and method of delivering the services, and ways of providing services in natural *generic* environments, *including group training for parents on behavioral intervention techniques in lieu of some or all of the in-home parent training component of the behavior intervention services, and purchase of neighborhood preschool services and needed qualified personnel in lieu of infant development programs.*

(B) *Effective July 1, 2009, at the time of development, review, or modification of an infant's or toddler's individualized family service plan, the regional center shall consider both of the following:*

(i) *The use of group training for parents on behavior intervention techniques, in lieu of some or all of the in-home parent training component of the behavior intervention services.*

(ii) *The purchase of neighborhood preschool services and needed qualified personnel, in lieu of infant development programs.*

(6) A statement of the agency responsible for providing the identified services.

(7) The name of the service coordinator who shall be responsible for facilitating implementation of the plan and coordinating with other agencies and persons.

(8) The steps to be taken to ensure transition of the infant or toddler upon reaching three years of age to other appropriate services. These may include, as appropriate, special education or other services offered in natural environments.

(9) The projected dates for the initiation of services in paragraph (5) and the anticipated duration of those services.

(e) Each service identified on the individualized family service plan shall be designated as one of three types:

(1) An early intervention service, as defined in subsection (4) of Section 1432 of Title 20 of the United States Code, and applicable regulations, that is provided or purchased through the regional center, local educational agency, or other participating agency. The State Department of Health Care Services, State

1 Department of Social Services, State Department of Mental Health,
2 and State Department of Alcohol and Drug Programs shall provide
3 services in accordance with state and federal law and applicable
4 regulations, and up to the level of funding as appropriated by the
5 Legislature. Early intervention services identified on an
6 individualized family service plan that exceed the funding,
7 statutory, and regulatory requirements of these departments shall
8 be provided or purchased by regional centers or local educational
9 agencies under subdivisions (b) and (c) of Section 95014. The
10 State Department of Health Care Services, State Department of
11 Social Services, State Department of Mental Health, and State
12 Department of Alcohol and Drug Programs shall not be required
13 to provide early intervention services over their existing funding,
14 statutory, and regulatory requirements.

15 (2) Another service, other than those specified in paragraph (1),
16 which the eligible infant or toddler or his or her family may receive
17 from other state programs, subject to the eligibility standards of
18 those programs.

19 (3) A referral to a nonrequired service that may be provided to
20 an eligible infant or toddler or his or her family. Nonrequired
21 services are those services that are not defined as early intervention
22 services or do not relate to meeting the special developmental
23 needs of an eligible infant or toddler related to the disability, but
24 ~~which~~ *that* may be helpful to the family. The granting or denial of
25 nonrequired services by a public or private agency is not subject
26 to appeal under this title. *Notwithstanding any other provision of*
27 *law or regulation to the contrary, effective July 1, 2009, with the*
28 *exception of durable medical equipment, regional centers shall*
29 *not purchase nonrequired services, but may refer a family to a*
30 *nonrequired service that may be available to an eligible infant or*
31 *toddler or his or her family.*

32 (f) An annual review, and other periodic reviews, of the
33 individualized family service plan for an infant or toddler and the
34 infant's or toddler's family shall be conducted to determine the
35 degree of progress that is being made in achieving the outcomes
36 specified in the plan and whether modification or revision of the
37 outcomes or services is necessary. The frequency, participants,
38 purpose, and required processes for annual and periodic reviews
39 shall be consistent with the statutes and regulations under Part C
40 of the federal Individuals with Disabilities Education Act (20

1 U.S.C. Sec. 1431 et seq.) and this title, and shall be specified in
2 regulations adopted pursuant to Section 95028.

3 *SEC. 4. Section 95021 is added to the Government Code, to*
4 *read:*

5 *95021. (a) Effective July 1, 2009, notwithstanding any other*
6 *provision of law or regulation to the contrary, any vendor who*
7 *provides applied behavioral analysis (ABA) services or intensive*
8 *behavioral intervention services, or both, as defined in subdivision*
9 *(d), shall:*

10 *(1) Conduct a behavioral assessment of each infant or toddler*
11 *to whom the vendor provides these services.*

12 *(2) Design an intervention plan that shall include the service*
13 *type, number of hours, and parent participation needed to achieve*
14 *the goals and objectives of the infant or toddler, as set forth in his*
15 *or her individualized family service plan (IFSP). The intervention*
16 *plan shall also set forth the frequency at which the progress of the*
17 *infant or toddler shall be evaluated and reported.*

18 *(3) Provide a copy of the intervention plan to the regional center*
19 *for review and consideration by the planning team members.*

20 *(b) Effective July 1, 2009, notwithstanding any other provision*
21 *of law or regulation to the contrary, regional centers shall:*

22 *(1) Only purchase ABA services or intensive behavioral*
23 *intervention services that reflect evidence-based practices, promote*
24 *positive social behaviors, and ameliorate behaviors that interfere*
25 *with learning and social interactions.*

26 *(2) Only purchase ABA or intensive behavioral intervention*
27 *services when the parent or parents of an infant or toddler*
28 *receiving services participate in the intervention plan for the infant*
29 *or toddler, given the critical nature of parent participation to the*
30 *success of the intervention plan.*

31 *(3) Not purchase either ABA or intensive behavioral intervention*
32 *services for purposes of providing respite, day care, or school*
33 *services.*

34 *(4) Discontinue purchasing ABA or intensive behavioral*
35 *intervention services for an infant or toddler when his or her*
36 *treatment goals and objectives, as described under subdivision*
37 *(a), are achieved. ABA or intensive behavioral intervention services*
38 *shall not be discontinued until the goals and objectives are*
39 *reviewed and updated as required in paragraph (5) and shall be*

1 *discontinued only if those updated treatment goals and objectives*
2 *do not require ABA or intensive behavioral intervention services.*

3 (5) *For each infant or toddler, evaluate the vendor's intervention*
4 *plan and number of service hours for ABA or intensive behavioral*
5 *intervention no less than every six months, consistent with*
6 *evidence-based practices. If necessary, the intervention plan's*
7 *treatment goals and objectives shall be updated and revised.*

8 (6) *Not reimburse a parent for participating in a behavioral*
9 *services treatment program.*

10 (c) *For infants and toddlers receiving ABA or behavioral*
11 *intervention services on July 1, 2009, as part of their IFSP,*
12 *subdivision (b) shall apply on August 1, 2009.*

13 (d) *For purposes of this section the following definitions shall*
14 *apply:*

15 (1) *"Applied behavioral analysis" means the design,*
16 *implementation, and evaluation of systematic instructional and*
17 *environmental modifications to promote positive social behaviors*
18 *and reduce or ameliorate behaviors which interfere with learning*
19 *and social interaction.*

20 (2) *"Intensive behavioral intervention" means any form of*
21 *applied behavioral analysis that is comprehensive, designed to*
22 *address all domains of functioning, and provided in multiple*
23 *settings for no more than 40 hours per week, across all settings,*
24 *depending on the individual's needs and progress. Interventions*
25 *can be delivered in a one-to-one ratio or small group format, as*
26 *appropriate.*

27 (3) *"Evidence-based practice" means a decisionmaking process*
28 *which integrates the best available scientifically rigorous research,*
29 *clinical expertise, and individual's characteristics. Evidence-based*
30 *practice is an approach to treatment rather than a specific*
31 *treatment. Evidence-based practice promotes the collection,*
32 *interpretation, integration, and continuous evaluation of valid,*
33 *important, and applicable individual- or family-reported,*
34 *clinically-observed, and research-supported evidence. The best*
35 *available evidence, matched to infant or toddler circumstances*
36 *and preferences, is applied to ensure the quality of clinical*
37 *judgments and facilitates the most cost-effective care.*

38 (4) *"Parent" has the same meaning as defined in paragraph*
39 *(15) of subdivision (b) of Section 52000 of Title 17 of the California*
40 *Code of Regulations.*

1 (5) *“Parent participation” shall include, but shall not be limited*
2 *to, the following meanings:*

3 (A) *Completion of group instruction on the basics of behavior*
4 *intervention.*

5 (B) *Implementation of intervention strategies according to the*
6 *intervention plan.*

7 (C) *If needed, collection of data on behavioral strategies and*
8 *submission of that data to the provider for incorporation into*
9 *progress reports.*

10 (D) *Participation in any needed clinical meetings.*

11 (E) *Purchase of suggested behavior modification materials or*
12 *community involvement if a reward system is used.*

13 SEC. 5. *Section 4418.1 of the Welfare and Institutions Code*
14 *is amended to read:*

15 4418.1. (a) The Legislature recognizes that it has a special
16 obligation to ensure the well-being of persons with developmental
17 disabilities who are moved from state hospitals to the community.

18 (b) To ensure that persons with developmental disabilities who
19 are moved from state hospitals to the community are receiving
20 necessary services and supports, the department shall contract with
21 an independent agency or organization for the tracking and
22 monitoring of those persons, including all persons moved as a
23 result of the *Coffelt v. State Department of Developmental Services*
24 settlement agreement and any persons moved after the terms of
25 that agreement have been met.

26 (c) The contractor shall be experienced in all of the following:

27 (1) Designing valid tracking instruments.

28 (2) Tracking the quality of community programs, including
29 outcome-based measures such as health and safety, quality of life,
30 integration, choice, and consumer satisfaction.

31 (3) Tracking the quality and appropriateness of community
32 placements for persons moving from large institutions into
33 community settings.

34 (4) Developing data systems.

35 (5) Data analysis and report preparation.

36 (d) The contractor shall measure consumer and family
37 satisfaction with services provided, including case management
38 and quality of life, including, but not limited to, health and safety,
39 independence, productivity, integration, opportunities for choice,
40 and delivery of needed services.

1 (e) The information maintained for each person shall include
2 the person's name, address, nature of disability, medical condition,
3 scope of community-based services and supports, and the annual
4 data collected by the contractor.

5 (f) The contractor shall meet with each person, and the person's
6 family, legal guardian, or conservator, when appropriate, no less
7 than once a year to discuss quality of life and observe the person's
8 services and supports. In cases where the consumer is not capable
9 of communicating his or her responses and where there is no family
10 member, guardian, or conservator involved, the contractor shall
11 meet with no less than two persons familiar with the consumer.
12 Additionally, the contractor shall interview staff and friends who
13 know the consumer best and review records, as appropriate.

14 (g) If the contractor identifies any suspected violation of the
15 legal, civil, or service rights of an individual, or if the contractor
16 determines that the health and welfare of the individual is at risk,
17 that information shall be provided immediately to the regional
18 center providing case management services, the client rights
19 advocate, and to the department.

20 (h) The department shall monitor the corrective actions taken
21 by the regional center and maintain a report in the person's file.
22 The consumer and, when appropriate, his or her parents, legal
23 guardian, or conservator, shall be provided with access to the
24 person's file and be provided with copies of all reports filed with
25 the regional center or department relative to them.

26 (i) The department shall establish a task force, including
27 representatives from stakeholder organizations, to annually review
28 the findings of the contractor and make recommendations regarding
29 additional or differing criteria for information to be gathered by
30 the contractor in future interviews.

31 (j) As of July 1, 1998, and annually thereafter, the contractor
32 shall provide a report to the Governor, the Legislature, and the
33 department outlining the activities and findings of this process.
34 The reports shall be public and shall contain no personally
35 identifying information about the persons being monitored.

36 (k) *It is the intent of the Legislature to ensure the well-being of*
37 *consumers, taking into account their informed and expressed*
38 *choices. It is further the intent of the Legislature to support the*
39 *satisfaction and success of consumers through the delivery of*
40 *quality services and supports. Evaluation of the services that*

1 consumers receive is a key aspect to the service system. Utilizing
2 the information that consumers, including those who have moved
3 from state developmental centers to the community, and their
4 families provide about those services in a reliable and meaningful
5 way is also critical to enabling the department to assess the
6 performance of the state's developmental services system and to
7 improve services for consumers in the future. To that end, pursuant
8 to Section 4571, the department shall implement, not later than
9 January 1, 2010, an improved unified quality assessment system.

10 (l) This section shall remain in effect only until July 1, 2009,
11 and as of that date is repealed, unless a later enacted statute, that
12 is enacted before July 1, 2009, deletes or extends that date.

13 SEC. 6. Section 4435 is added to the Welfare and Institutions
14 Code, to read:

15 4435. (a) The department shall establish a prevention program
16 for at-risk babies. For purposes of this section, "at-risk baby"
17 means a child under 36 months of age who is otherwise not eligible
18 for the California Early Intervention Program pursuant to Title
19 14 (commencing with Section 95000) of the Government Code or
20 services provided under the Lanterman Developmental Disabilities
21 Services Act (Division 4.5 (commencing with Section 4500)) and
22 whose genetic, medical, developmental, or environmental history
23 is predictive of a substantially greater risk for developmental
24 disability than that for the general population, the presence of
25 which is diagnosed by qualified clinicians.

26 (b) This program shall provide intake, assessment, case
27 management, and referral to generic agencies. For purposes of
28 this section, "generic agency" means any agency that has a legal
29 responsibility to serve the general public and that is receiving
30 public funds for providing these services.

31 (c) The department shall allocate to each regional center,
32 subject to appropriation, specific funding for this program. A
33 regional center's total expenditures for purchasing or providing
34 services under the prevention program shall not exceed the funding
35 allocated in its contract for this purpose.

36 (d) The department shall establish policies and procedures for
37 implementation of the prevention program by regional centers.
38 These policies and procedures shall define other services included
39 in this program and the process for appealing denial of eligibility
40 for the prevention program.

1 *SEC. 7. Section 4570 of the Welfare and Institutions Code is*
2 *amended to read:*

3 4570. (a) In order to remain informed regarding the quality of
4 services in the area and to protect the legal, civil, and service rights
5 of persons with developmental disabilities, the Legislature finds
6 that it is necessary to conduct life quality assessments with
7 consumers served by the regional centers.

8 (b) The department shall enter into an interagency agreement
9 with the state council, on behalf of the area boards, to conduct the
10 life quality assessments described in this section. This interagency
11 agreement shall include assurances that the state council shall not
12 direct the area boards in their conduct of these assessments or in
13 the content or format of the annual reports submitted to the council
14 by the area boards.

15 (c) Consistent with the responsibilities described in this chapter,
16 the area board, with the consent of the consumer and, when
17 appropriate, a family member, shall conduct life quality
18 assessments with consumers living in out-of-home placements,
19 supported living arrangements, or independent living arrangements
20 no less than once every three years or more frequently upon the
21 request of a consumer, or, when appropriate, a family member. If
22 a consumer who is eligible to receive a life quality assessment is
23 a dependent of a juvenile court pursuant to Section 300, 601, or
24 602, the assessment may be conducted with the consent of the
25 court or social services agency. A regional center or the department
26 shall annually provide the local area board with a list, including,
27 but not limited to, the name, address, and telephone number of
28 each consumer, and, when appropriate, a family member, the
29 consumer's date of birth, and the consumer's case manager, for
30 all consumers living in out-of-home placements, supported living
31 arrangements, or independent living arrangements, in order to
32 facilitate area board contact with consumers and, when appropriate,
33 family members, for the purpose of conducting life quality
34 assessments.

35 (d) The life quality assessments shall be conducted by utilizing
36 the "Looking at Life Quality Handbook" or subsequent revisions
37 developed by the department.

38 (e) The assessments shall be conducted by consumers, families,
39 providers, and others, including volunteer surveyors. Each area
40 board shall recruit, train, supervise, and coordinate surveyors.

1 Upon request, and if feasible, the area board shall respect the
2 request of a consumer and, when appropriate, family member, for
3 a specific surveyor to conduct the life quality assessment. An area
4 board may provide stipends to surveyors.

5 (f) A life quality assessment shall be conducted within 90 days
6 prior to a consumer's triennial individual program plan meeting,
7 so that the consumer and regional center may use this information
8 as part of the planning process.

9 (g) Prior to conducting a life quality assessment, the area board
10 shall meet with the regional center to coordinate the exchange of
11 appropriate information necessary to conduct the assessment and
12 ensure timely followup to identified violations of any legal, civil,
13 or service rights.

14 (h) Following the completion of each life quality assessment,
15 the area board shall develop a report of its findings and provide a
16 copy of the report to the consumer, when appropriate, family
17 members, and the regional center providing case management
18 services to the consumer. A copy of the life quality assessment of
19 a consumer who is a dependent of a juvenile court pursuant to
20 Section 300, 601, or 602 shall be provided, upon request, to the
21 court or social services agency. In the event that a report identifies
22 alleged violations of any legal, civil, or service right, the area board
23 shall notify the regional center and the department of the alleged
24 violation. The department shall monitor the regional center to
25 ensure that violations are addressed and resolved in a timely
26 manner.

27 (i) Regional centers shall review information from the life
28 quality assessments on a systemic basis in order to identify training
29 and resource development needs.

30 (j) (1) On an annual basis, each area board shall prepare and
31 submit a report to the state council describing its activities and
32 accomplishments related to the implementation of this section.
33 The report shall include, but not be limited to, the number of life
34 quality assessments conducted, the number of surveyors, including
35 those provided stipends, a description of the surveyor recruitment
36 process and training program, including any barriers to recruitment,
37 the number, nature, and outcome of any identified violations of
38 legal, civil, or service rights reported to regional centers, and
39 recommendations for improvement in the life quality assessment
40 process.

(2) By September 15 of each year, the state council shall compile these reports and forward to the Governor, the Legislature, and the department.

(k) Implementation of this section shall be subject to an annual appropriation of funds in the Budget Act for this purpose.

(l) It is the intent of the Legislature to ensure the well-being of consumers, taking into account their informed and expressed choices. It is further the intent of the Legislature to support the satisfaction and success of consumers through the delivery of quality services and supports. Evaluation of the services that consumers receive is a key aspect to the service system. Utilizing the information that consumers, including those who have moved from state developmental centers to the community, and their families provide about those services in a reliable and meaningful way is also critical to enabling the department to assess the performance of the state's developmental services system and to improve services for consumers in the future. To that end, pursuant to Section 4571, the department shall implement, not later than January 1, 2010, an improved unified quality assessment system.

(m) This section shall remain in effect only until January 1, 2010, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2010, deletes or extends that date.

SEC. 8. The heading of Chapter 4 (commencing with Section 4570) of Division 4.5 of the Welfare and Institutions Code is amended to read:

CHAPTER 4. ~~LIFE~~ QUALITY ASSESSMENTS
CONDUCTED BY AREA BOARDS

SEC. 9. Section 4571 is added to the Welfare and Institutions Code, to read:

4571. (a) *It is the intent of the Legislature to ensure the well-being of consumers, taking into account their informed and expressed choices. It is further the intent of the Legislature to support the satisfaction and success of consumers through the delivery of quality services and supports. Evaluation of the services that consumers receive is a key aspect to the service system. Utilizing the information that consumers and their families provide about such services in a reliable and meaningful way is also*

1 critical to enable the department to assess the performance of the
2 state's developmental services system and to improve services for
3 consumers in the future. To that end, the State Department of
4 Developmental Services, on or before January 1, 2010, shall
5 implement an improved, unified quality assessment system, in
6 accordance with this section.

7 (b) The department, in consultation with stakeholders, shall
8 identify a valid and reliable quality assurance instrument that
9 includes assessments of consumer and family satisfaction, provision
10 of services, and personal outcomes. The instrument shall do all of
11 the following:

12 (1) Provide nationally validated, benchmarked, consistent,
13 reliable, and measurable data for the department's Quality
14 Management System.

15 (2) Enable the department and regional centers to compare the
16 performance of California's developmental services system against
17 other states' developmental services systems and to assess quality
18 and performance among all of the regional centers.

19 (3) Include outcome-based measures such as health, safety,
20 well-being, relationships, interactions with people who do not
21 have a disability, employment, quality of life, integration, choice,
22 service, and consumer satisfaction.

23 (c) To the extent that funding is available, the instrument
24 identified in subdivision (b) may be expanded to collect additional
25 data requested by the State Council on Developmental Disabilities.

26 (d) The department shall contract with an independent agency
27 or organization to implement by January 1, 2010, the quality
28 assurance instrument described in subdivision (b). The contractor
29 shall be experienced in all of the following:

30 (1) Designing valid quality assurance instruments for
31 developmental service systems.

32 (2) Tracking outcome-based measures such as health, safety,
33 well-being, relationships, interactions with people who do not
34 have a disability, employment, quality of life, integration, choice,
35 service, and consumer satisfaction.

36 (3) Developing data systems.

37 (4) Data analysis and report preparation.

38 (5) Assessments of the services received by consumers who are
39 moved from developmental centers to the community, given the

1 *Legislature's historic recognition of a special obligation to ensure*
2 *the well-being of these persons.*

3 *(e) The department, in consultation with the contractor*
4 *described in subdivision (d), shall establish the methodology by*
5 *which the quality assurance instrument shall be administered,*
6 *including, but not limited to, how often and to whom the quality*
7 *assurance will be administered, and the design of a stratified,*
8 *random sample among the entire population of consumers served*
9 *by regional centers. The contractor shall provide aggregate*
10 *information for all regional centers and the state as a whole. At*
11 *the request of a consumer or the family member of a consumer,*
12 *the survey shall be conducted in the primary language of the*
13 *consumer or family member surveyed.*

14 *(f) The department shall contract with the state council to collect*
15 *data for the quality assurance instrument described in subdivision*
16 *(b). If, during the data collection process, the state council*
17 *identifies any suspected violation of the legal, civil, or service*
18 *rights of a consumer, or if it determines that the health and welfare*
19 *of a consumer is at risk, that information shall be provided*
20 *immediately to the regional center providing case management*
21 *services to the consumer. At the request of the consumer, or family,*
22 *when appropriate, a copy of the completed survey shall be provided*
23 *to the regional center providing case management services to*
24 *improve the consumer's quality of services through the individual*
25 *planning process.*

26 *(g) The department, in consultation with stakeholders, shall*
27 *annually review the data collected from and the findings of the*
28 *quality assurance instrument described in subdivision (b) and*
29 *accept recommendations regarding additional or different criteria*
30 *for the quality assurance instrument in order to assess the*
31 *performance of the state's developmental services system and*
32 *improve services for consumers.*

33 *(h) All reports generated pursuant to this section shall be made*
34 *publicly available, but shall not contain any personal identifying*
35 *information about any person assessed.*

36 *(i) All data collected pursuant to subdivision (c) shall be*
37 *provided to the state council, but shall contain no personal*
38 *identifying information about the persons being surveyed.*

39 *(j) Implementation of this section shall be subject to an annual*
40 *appropriation of funds in the Budget Act for this purpose.*

1 *SEC. 10. Section 4648 of the Welfare and Institutions Code is*
2 *amended to read:*

3 4648. In order to achieve the stated objectives of a consumer's
4 individual program plan, the regional center shall conduct activities,
5 including, but not limited to, all of the following:

6 (a) Securing needed services and supports.

7 (1) It is the intent of the Legislature that services and supports
8 assist individuals with developmental disabilities in achieving the
9 greatest self-sufficiency possible and in exercising personal
10 choices. The regional center shall secure services and supports
11 that meet the needs of the consumer, as determined in the
12 consumer's individual program plan, and within the context of the
13 individual program plan, the planning team shall give highest
14 preference to those services and supports which would allow
15 minors with developmental disabilities to live with their families,
16 adult persons with developmental disabilities to live as
17 independently as possible in the community, and that allow all
18 consumers to interact with persons without disabilities in positive,
19 meaningful ways.

20 (2) In implementing individual program plans, regional centers,
21 through the planning team, shall first consider services and supports
22 in natural community, home, work, and recreational settings.
23 Services and supports shall be flexible and individually tailored
24 to the consumer and, where appropriate, his or her family.

25 (3) A regional center may, pursuant to vendorization or a
26 contract, purchase services or supports for a consumer from any
27 individual or agency which the regional center and consumer or,
28 where appropriate, his or her parents, legal guardian, or
29 conservator, or authorized representatives, determines will best
30 accomplish all or any part of that consumer's program plan.

31 (A) Vendorization or contracting is the process for identification,
32 selection, and utilization of service vendors or contractors, based
33 on the qualifications and other requirements necessary in order to
34 provide the service.

35 (B) A regional center may reimburse an individual or agency
36 for services or supports provided to a regional center consumer if
37 the individual or agency has a rate of payment for vendored or
38 contracted services established by the department, pursuant to this
39 division, and is providing services pursuant to an emergency
40 vendorization or has completed the vendorization procedures or

1 has entered into a contract with the regional center and continues
2 to comply with the vendorization or contracting requirements. The
3 director shall adopt regulations governing the vendorization process
4 to be utilized by the department, regional centers, vendors and the
5 individual or agency requesting vendorization.

6 (C) Regulations shall include, but not be limited to: the vendor
7 application process, and the basis for accepting or denying an
8 application; the qualification and requirements for each category
9 of services that may be provided to a regional center consumer
10 through a vendor; requirements for emergency vendorization;
11 procedures for termination of vendorization; the procedure for an
12 individual or an agency to appeal any vendorization decision made
13 by the department or regional center.

14 (D) A regional center may vendorize a licensed facility for
15 exclusive services to persons with developmental disabilities at a
16 capacity equal to or less than the facility's licensed capacity. A
17 facility already licensed on January 1, 1999, shall continue to be
18 vendorized at their full licensed capacity until the facility agrees
19 to vendorization at a reduced capacity.

20 (E) *Effective July 1, 2009, notwithstanding any other provision*
21 *of law or regulation to the contrary, a regional center shall not*
22 *newly vendor a State Department of Social Services licensed*
23 *24-hour residential care facility with a licensed capacity of 16 or*
24 *more beds, unless the facility qualifies for receipt of federal funds*
25 *under the Medicaid Program.*

26 (4) Notwithstanding subparagraph (B), a regional center may
27 contract or issue a voucher for services and supports provided to
28 a consumer or family at a cost not to exceed the maximum rate of
29 payment for that service or support established by the department.
30 If a rate has not been established by the department, the regional
31 center may, for an interim period, contract for a specified service
32 or support with, and establish a rate of payment for, any provider
33 of the service or support necessary to implement a consumer's
34 individual program plan. Contracts may be negotiated for a period
35 of up to three years, with annual review and subject to the
36 availability of funds.

37 (5) In order to ensure the maximum flexibility and availability
38 of appropriate services and supports for persons with
39 developmental disabilities, the department shall establish and
40 maintain an equitable system of payment to providers of services

1 and supports identified as necessary to the implementation of a
2 consumers' individual program plan. The system of payment shall
3 include provision for a rate to ensure that the provider can meet
4 the special needs of consumers and provide quality services and
5 supports in the least restrictive setting as required by law.

6 (6) The regional center and the consumer, or where appropriate,
7 his or her parents, legal guardian, conservator, or authorized
8 representative, including those appointed pursuant to subdivision
9 (d) of Section 4548 or subdivision (e) of Section 4705, shall,
10 pursuant to the individual program plan, consider all of the
11 following when selecting a provider of consumer services and
12 supports:

13 (A) A provider's ability to deliver quality services or supports
14 which can accomplish all or part of the consumer's individual
15 program plan.

16 (B) A provider's success in achieving the objectives set forth
17 in the individual program plan.

18 (C) Where appropriate, the existence of licensing, accreditation,
19 or professional certification.

20 (D) The cost of providing services or supports of comparable
21 quality by different providers, if available, *shall be reviewed, and*
22 *the least costly available provider of comparable service, including*
23 *the cost of transportation, who is able to accomplish all or part*
24 *of the consumer's individual program plan, consistent with the*
25 *particular needs of the consumer and family as identified in the*
26 *individual program plan, shall be selected. In determining the*
27 *least costly provider, the availability of federal financial*
28 *participation shall be considered. The consumer shall not be*
29 *required to use the least costly provider if it will result in the*
30 *consumer moving from an existing provider of services or supports*
31 *to more restrictive or less integrated services or supports.*

32 (E) The consumer's or, where appropriate, the parents, legal
33 guardian, or conservator of a consumer's choice of providers.

34 (7) No service or support provided by any agency or individual
35 shall be continued unless the consumer or, where appropriate, his
36 or her parents, legal guardian, or conservator, or authorized
37 representative, including those appointed pursuant to subdivision
38 (d) of Section 4548 or subdivision (e) of Section 4705, is satisfied
39 and the regional center and the consumer or, when appropriate,
40 the person's parents or legal guardian or conservator agree that

1 planned services and supports have been provided, and reasonable
2 progress toward objectives have been made.

3 (8) Regional center funds shall not be used to supplant the
4 budget of any agency which has a legal responsibility to serve all
5 members of the general public and is receiving public funds for
6 providing those services.

7 (9) (A) A regional center may, directly or through an agency
8 acting on behalf of the center, provide placement in, purchase of,
9 or follow-along services to persons with developmental disabilities
10 in, appropriate community living arrangements, including, but not
11 limited to, support service for consumers in homes they own or
12 lease, foster family placements, health care facilities, and licensed
13 community care facilities. In considering appropriate placement
14 alternatives for children with developmental disabilities, approval
15 by the child's parent or guardian shall be obtained before placement
16 is made.

17 (B) *Effective July 1, 2012, notwithstanding any other provision*
18 *of law or regulation to the contrary, a regional center shall not*
19 *purchase residential services from a State Department of Social*
20 *Services licensed 24-hour residential care facility with a licensed*
21 *capacity of 16 or more beds. This prohibition on regional center*
22 *purchase of residential services shall not apply to either of the*
23 *following:*

24 (i) *A residential facility with a licensed capacity of 16 or more*
25 *beds that has been approved to participate in the department's*
26 *Home and Community Based Services Waiver or another existing*
27 *waiver program or certified to participate in the Medi-Cal*
28 *program.*

29 (ii) *A residential facility service provider that has a written*
30 *agreement and specific plan prior to July 1, 2012, with the*
31 *vendor of regional center to downsize the existing facility by*
32 *transitioning its residential services to living arrangements of 15*
33 *beds or less or restructure the large facility to meet federal*
34 *Medicaid eligibility requirements on or before June 30, 2013.*

35 ~~(B)~~

36 (C) Each person with developmental disabilities placed by the
37 regional center in a community living arrangement shall have the
38 rights specified in this division. These rights shall be brought to
39 the person's attention by any means necessary to reasonably
40 communicate these rights to each resident, provided that, at a

1 minimum, the Director of Developmental Services prepare,
2 provide, and require to be clearly posted in all residential facilities
3 and day programs a poster using simplified language and pictures
4 that is designed to be more understandable by persons with
5 cognitive disabilities and that the rights information shall also be
6 available through the regional center to each residential facility
7 and day program in alternative formats, including, but not limited
8 to, other languages, braille, and audio tapes, when necessary to
9 meet the communication needs of consumers.

10 (C)

11 (D) Consumers are eligible to receive supplemental services
12 including, but not limited to, additional staffing, pursuant to the
13 process described in subdivision (d) of Section 4646. Necessary
14 additional staffing that is not specifically included in the rates paid
15 to the service provider may be purchased by the regional center if
16 the additional staff are in excess of the amount required by
17 regulation and the individual's planning team determines the
18 additional services are consistent with the provisions of the
19 individual program plan. Additional staff should be periodically
20 reviewed by the planning team for consistency with the individual
21 program plan objectives in order to determine if continued use of
22 the additional staff is necessary and appropriate and if the service
23 is producing outcomes consistent with the individual program plan.
24 Regional centers shall monitor programs to ensure that the
25 additional staff is being provided and utilized appropriately.

26 (10) Emergency and crisis intervention services including, but
27 not limited to, mental health services and behavior modification
28 services, may be provided, as needed, to maintain persons with
29 developmental disabilities in the living arrangement of their own
30 choice. Crisis services shall first be provided without disrupting a
31 person's living arrangement. If crisis intervention services are
32 unsuccessful, emergency housing shall be available in the person's
33 home community. If dislocation cannot be avoided, every effort
34 shall be made to return the person to his or her living arrangement
35 of choice, with all necessary supports, as soon as possible.

36 (11) Among other service and support options, planning teams
37 shall consider the use of paid roommates or neighbors, personal
38 assistance, technical and financial assistance, and all other service
39 and support options which would result in greater self-sufficiency
40 for the consumer and cost-effectiveness to the state.

1 (12) When facilitation as specified in an individual program
2 plan requires the services of an individual, the facilitator shall be
3 of the consumer's choosing.

4 (13) The community support may be provided to assist
5 individuals with developmental disabilities to fully participate in
6 community and civic life, including, but not limited to, programs,
7 services, work opportunities, business, and activities available to
8 persons without disabilities. This facilitation shall include, but not
9 be limited to, any of the following:

10 (A) Outreach and education to programs and services within
11 the community.

12 (B) Direct support to individuals which would enable them to
13 more fully participate in their community.

14 (C) Developing unpaid natural supports when possible.

15 (14) Other services and supports may be provided as set forth
16 in Sections 4685, 4686, 4687, 4688, and 4689, when necessary.

17 (15) *Notwithstanding any other provision of law or regulation*
18 *to the contrary, effective July 1, 2009, regional centers shall not*
19 *purchase experimental treatments, therapeutic services, or devices*
20 *that have not been clinically determined or scientifically proven*
21 *to be effective or safe or for which risks and complications are*
22 *unknown. Experimental treatments or therapeutic services include*
23 *experimental medical or nutritional therapy when the use of the*
24 *product for that purpose is not a general physician practice. For*
25 *regional center consumers receiving these services as part of their*
26 *individual program plan (IPP) or individualized family service*
27 *plan (IFSP) on July 1, 2009, this prohibition shall apply on August*
28 *1, 2009.*

29 (b) (1) Advocacy for, and protection of, the civil, legal, and
30 service rights of persons with developmental disabilities as
31 established in this division.

32 (2) Whenever the advocacy efforts of a regional center to secure
33 or protect the civil, legal, or service rights of any of its consumers
34 prove ineffective, the regional center or the person with
35 developmental disabilities or his or her parents, legal guardian, or
36 other representative may request the area board to initiate action
37 under the provisions defining area board advocacy functions
38 established in this division.

1 (c) The regional center may assist consumers and families
2 directly, or through a provider, in identifying and building circles
3 of support within the community.

4 (d) In order to increase the quality of community services and
5 protect consumers, the regional center shall, when appropriate,
6 take either of the following actions:

7 (1) Identify services and supports that are ineffective or of poor
8 quality and provide or secure consultation, training, or technical
9 assistance services for any agency or individual provider to assist
10 that agency or individual provider in upgrading the quality of
11 services or supports.

12 (2) Identify providers of services or supports that may not be
13 in compliance with local, state, and federal statutes and regulations
14 and notify the appropriate licensing or regulatory authority, or
15 request the area board to investigate the possible noncompliance.

16 (e) When necessary to expand the availability of needed services
17 of good quality, a regional center may take actions that include,
18 but are not limited to, the following:

19 (1) Soliciting an individual or agency by requests for proposals
20 or other means, to provide needed services or supports not presently
21 available.

22 (2) Requesting funds from the Program Development Fund,
23 pursuant to Section 4677, or community placement plan funds
24 designated from that fund, to reimburse the startup costs needed
25 to initiate a new program of services and supports.

26 (3) Using creative and innovative service delivery models,
27 including, but not limited to, natural supports.

28 (f) Except in emergency situations, a regional center shall not
29 provide direct treatment and therapeutic services, but shall utilize
30 appropriate public and private community agencies and service
31 providers to obtain those services for its consumers.

32 (g) Where there are identified gaps in the system of services
33 and supports or where there are identified consumers for whom
34 no provider will provide services and supports contained in his or
35 her individual program plan, the department may provide the
36 services and supports directly.

37 (h) *At least annually, regional centers shall provide the*
38 *consumer, his or her parents, legal guardian, conservator, or*
39 *authorized representative a statement of services and supports the*
40 *regional center purchased for the purpose of ensuring that they*

1 *are delivered. The statement shall include the type, unit, month,*
2 *and cost of services and supports purchased.*

3 *SEC. 11. Section 4648.1 of the Welfare and Institutions Code*
4 *is amended to read:*

5 4648.1. (a) The State Department of Developmental Services
6 and regional centers may monitor services and supports purchased
7 for regional center consumers with or without prior notice. Not
8 less than two monitoring visits to a licensed long-term health care
9 or community care facility or family home agency home each year
10 shall be unannounced. The department may conduct fiscal reviews
11 and audits of the service providers' records.

12 (b) Department and regional center staff involved in monitoring
13 or auditing services provided to the regional centers' consumers
14 by a service provider shall have access to the provider's grounds,
15 buildings, and service program, and to all related records, including
16 books, papers, computerized data, accounting records, and related
17 documentation. All persons connected with the service provider's
18 program, including, but not limited to, program administrators,
19 staff, consultants, and accountants, shall provide information and
20 access to facilities as required by the department or regional center.

21 (c) The department, in cooperation with regional centers, shall
22 ensure that all providers of services and supports purchased by
23 regional centers for their consumers are informed of all of the
24 following:

25 (1) The provisions of this section.

26 (2) The responsibility of providers to comply with laws and
27 regulations governing both their service program and the provision
28 of services and supports to people with developmental disabilities.

29 (3) The responsibility of providers to comply with conditions
30 of any contract or agreement between the regional center and the
31 provider, and between the provider and the department.

32 (4) The rights of providers established in regulations adopted
33 pursuant to Sections 4648.2, 4748, and 4780.5, to appeal actions
34 taken by regional centers or the department as a result of their
35 monitoring and auditing findings.

36 (d) A regional center may terminate payments for services, and
37 may terminate its contract or authorization for the purchase of
38 consumer services if it determines that the provider has not
39 complied with provisions of its contract or authorization with the
40 regional center or with applicable state laws and regulations. When

1 terminating payments for services or its contract or authorization
2 for the purchase of consumer services, a regional center shall make
3 reasonable efforts to avoid unnecessary disruptions of consumer
4 services.

5 (e) A regional center or the department may recover from the
6 provider funds paid for services when the department or the
7 regional center determines that either of the following has occurred:

8 (1) The services were not provided in accordance with the
9 regional center's contract or authorization with the provider, or
10 with applicable state laws or regulations.

11 (2) The rate paid is based on inaccurate data submitted by the
12 provider on a provider cost statement.

13 Any funds so recovered shall be remitted to the department.

14 (f) Any evidence of suspected licensing violations found by
15 department or regional center personnel shall be reported
16 immediately to the appropriate state licensing agency.

17 (g) Regional centers may establish volunteer teams, made up
18 of consumers, parents, other family members, and advocates to
19 conduct the monitoring activities described in this section.

20 (h) In meeting its responsibility to provide technical assistance
21 to providers of community living arrangements for persons with
22 developmental disabilities, including, but not limited to, licensed
23 residential facilities, family home agencies, and supported or
24 independent living arrangements, a regional center shall utilize
25 the "Looking at Service Quality-Provider's Handbook" developed
26 by the department or subsequent revisions developed by the
27 department.

28 (i) *Effective July 1, 2009, a regional center shall not be required*
29 *to perform triennial evaluations of community care facilities, as*
30 *described in Sections 56046, 56049, 56050, 56051, and 56052 of*
31 *Title 17 of the California Code of Regulations.*

32 *SEC. 12. Section 4648.35 is added to the Welfare and*
33 *Institutions Code, to read:*

34 *4648.35. Effective July 1, 2009, at the time of development,*
35 *review, or modification of a consumer's individual program plan*
36 *(IPP) or individualized family service plan (IFSP), all of the*
37 *following shall apply to a regional center:*

38 (a) *A regional center shall not fund private specialized*
39 *transportation services for an adult consumer who can safely*

1 access and utilize public transportation, when that transportation
2 is available.

3 (b) A regional center shall fund the least expensive
4 transportation modality that meets the consumer's needs, as set
5 forth in the consumer's IPP or IFSP.

6 (c) A regional center shall fund transportation, when required,
7 from the consumer's residence to the lowest-cost vendor that
8 provides the service that meets the consumer's needs, as set forth
9 in the consumer's IPP or IFSP. For purposes of this subdivision,
10 the cost of a vendor shall be determined by combining the vendor's
11 program costs and the costs to transport a consumer from the
12 consumer's residence to the vendor.

13 (d) A regional center shall fund transportation services for a
14 minor child living in the family residence, only if the family of the
15 child provides sufficient written documentation to the regional
16 center to demonstrate that it is unable to provide transportation
17 for the child.

18 SEC. 13. Section 4648.5 is added to the Welfare and Institutions
19 Code, to read:

20 4648.5. (a) Notwithstanding any other provision of law or
21 regulations to the contrary, effective July 1, 2009, a regional
22 centers' authority to purchase the following services shall be
23 suspended pending implementation of the Individual Choice Budget
24 and certification by the Director of Developmental Services that
25 the Individual Choice Budget has been implemented and will result
26 in state budget savings sufficient to offset the costs of providing
27 the following services:

28 (1) Camping services and associated travel expenses.

29 (2) Social recreation activities, except for those activities
30 vendored as community-based day programs.

31 (3) Educational services for children three to 17, inclusive,
32 years of age.

33 (4) Nonmedical therapies, including, but not limited to,
34 specialized recreation, art, dance, and music.

35 (b) For regional center consumers receiving services described
36 in subdivision (a) as part of their individual program plan (IPP)
37 or individualized family service plan (IFSP), the prohibition in
38 subdivision (a) shall take effect on August 1, 2009.

39 (c) An exemption may be granted on an individual basis in
40 extraordinary circumstances to permit purchase of a service

1 *identified in subdivision (a) when the regional center determines*
2 *that the service is a primary or critical means for ameliorating*
3 *the physical, cognitive, or psychosocial effects of the consumer's*
4 *developmental disability, or the service is necessary to enable the*
5 *consumer to remain in his or her home and no alternative service*
6 *is available to meet the consumer's needs.*

7 *SEC. 14. Section 4648.6 is added to the Welfare and Institutions*
8 *Code, to read:*

9 *4648.6. The department, in consultation with stakeholders,*
10 *shall develop an alternative service delivery model that provides*
11 *an Individual Choice Budget for obtaining quality services and*
12 *supports which provides choice and flexibility within a finite budget*
13 *that in the aggregate reduces regional center purchase of service*
14 *expenditures, reduces reliance on the state general fund, and*
15 *maximizes federal financial participation in the delivery of services.*
16 *The individual budget will be determined using a fair, equitable,*
17 *transparent standardized process.*

18 *SEC. 15. Section 4659 of the Welfare and Institutions Code is*
19 *amended to read:*

20 *4659. (a) Except as otherwise provided in subdivision (b) or*
21 *(e), the regional center shall identify and pursue all possible*
22 *sources of funding for consumers receiving regional center services.*
23 *These sources shall include, but not be limited to, both of the*
24 *following:*

25 *(1) Governmental or other entities or programs required to*
26 *provide or pay the cost of providing services, including Medi-Cal,*
27 *Medicare, the Civilian Health and Medical Program for Uniform*
28 *Services, school districts, and federal supplemental security income*
29 *and the state supplementary program.*

30 *(2) Private entities, to the maximum extent they are liable for*
31 *the cost of services, aid, insurance, or medical assistance to the*
32 *consumer.*

33 *(b) Any revenues collected by a regional center pursuant to this*
34 *section shall be applied against the cost of services prior to use of*
35 *regional center funds for those services. This revenue shall not*
36 *result in a reduction in the regional center's purchase of services*
37 *budget, except as it relates to federal supplemental security income*
38 *and the state supplementary program.*

39 *(c) Effective July 1, 2009, notwithstanding any other provision*
40 *of law or regulation to the contrary, regional centers shall not*

1 *purchase any service that would otherwise be available from*
2 *Medi-Cal, Medicare, the Civilian Health and Medical Program*
3 *for Uniform Services, In-Home Support Services, California*
4 *Children's Services, private insurance, or a health care service*
5 *plan when a consumer or a family meets the criteria of this*
6 *coverage but chooses not to pursue that coverage. If, on July 1,*
7 *2009, a regional center is purchasing that service as part of a*
8 *consumer's individual program plan (IPP), the prohibition shall*
9 *take effect on October 1, 2009.*

10 *(d) (1) Effective July 1, 2009, notwithstanding any other*
11 *provision of law or regulation to the contrary, a regional center*
12 *shall not purchase medical or dental services for a consumer three*
13 *years of age or older unless the regional center is provided with*
14 *documentation of a Medi-Cal, private insurance, or a health care*
15 *service plan denial and the regional center determines that an*
16 *appeal by the consumer or family of the denial does not have merit.*
17 *If, on July 1, 2009, a regional center is purchasing the service as*
18 *part of a consumer's IPP, this provision shall take effect on August*
19 *1, 2009. Regional centers may pay for medical or dental services*
20 *during the following periods:*

21 *(A) While coverage is being pursued, but before a denial is*
22 *made.*

23 *(B) Pending a final administrative decision on the administrative*
24 *appeal if the family has provided to the regional center a*
25 *verification that an administrative appeal is being pursued.*

26 *(C) Until the commencement of services by Medi-Cal, private*
27 *insurance, or a health care service plan.*

28 *(2) When necessary, the consumer or family may receive*
29 *assistance from the regional center, the Clients' Rights Advocate*
30 *funded by the department, or area boards on developmental*
31 *disabilities in pursuing these appeals.*

32 ~~(e)~~

33 *(e) This section shall not be construed to impose any additional*
34 *liability on the parents of children with developmental disabilities,*
35 *or to restrict eligibility for, or deny services to, any individual who*
36 *qualifies for regional center services but is unable to pay.*

37 ~~(f)~~

38 *(f) In order to best utilize generic resources, federally funded*
39 *programs, and private insurance programs for individuals with*

1 developmental disabilities, the department and regional centers
2 shall engage in the following activities:

3 (1) Within existing resources, the department shall provide
4 training to regional centers, no less than once every two years, in
5 the availability and requirements of generic, federally funded and
6 private programs available to persons with developmental
7 disabilities, including, but not limited to, eligibility requirements,
8 the application process and covered services, and the appeal
9 process.

10 (2) Regional centers shall disseminate information and training
11 to all service coordinators regarding the availability and
12 requirements of generic, federally funded and private insurance
13 programs on the local level.

14 *SEC. 16. Section 4677 of the Welfare and Institutions Code is*
15 *amended to read:*

16 4677. (a) (1) All parental fees collected by or for regional
17 centers shall be remitted to the State Treasury to be deposited in
18 the Developmental Disabilities Program Development Fund, which
19 is hereby created and hereinafter called the Program Development
20 Fund. The purpose of the Program Development Fund shall be to
21 provide resources needed to initiate new programs, and to expand
22 or convert existing programs. Within the context of, and consistent
23 with, approved priorities for program development in the state
24 plan, program development funds shall promote integrated
25 residential, work, instructional, social, civic, volunteer, and
26 recreational services and supports that increase opportunities for
27 self-determination and maximum independence of persons with
28 developmental disabilities. *Notwithstanding any other provision*
29 *of law or regulation to the contrary, commencing July 1, 2009,*
30 *parental fees remitted to the State Treasury shall be deposited in*
31 *accordance with Section 4784.*

32 ~~In~~

33 (2) *In* no event shall an allocation from the Program
34 Development Fund be granted for more than 24 months.

35 (b) (1) The State Council on Developmental Disabilities shall,
36 at least once every five years, request from all regional centers
37 information on the types and amounts of services and supports
38 needed, but currently unavailable.

39 (2) The state council shall work collaboratively with the
40 department and the Association of Regional Center Agencies to

1 develop standardized forms and protocols that shall be used by all
2 regional centers and area boards in collecting and reporting this
3 information. In addition to identifying services and supports that
4 are needed, but currently unavailable, the forms and protocols shall
5 also solicit input and suggestions on alternative and innovative
6 service delivery models that would address consumer needs.

7 (3) In addition to the information provided pursuant to paragraph
8 (2), the state council may utilize information from other sources,
9 including, but not limited to, public hearings, ~~life quality assurance~~
10 ~~assessments conducted pursuant to Section 4570, the annual report~~
11 ~~regarding persons moving from developmental centers produced~~
12 ~~pursuant to Section 4418.1, the annual report regarding~~
13 ~~community-based vendor services produced pursuant to Section~~
14 ~~4637.5 4571~~, regional center reports on alternative service delivery
15 submitted to the department pursuant to Section 4669.2, and the
16 annual report on self-directed services produced pursuant to Section
17 4685.7.

18 (4) The department shall provide additional information, as
19 requested by the state council.

20 (5) Based on the information provided by the regional centers
21 and other agencies, the state council shall develop an assessment
22 of the need for new, expanded, or converted community services
23 and support, and make that assessment available to the public. The
24 assessment shall include a discussion of the type and amount of
25 services and supports necessary but currently unavailable including
26 the impact on consumers with common characteristics, including,
27 but not limited to, disability, specified geographic regions, age,
28 and ethnicity, face distinct challenges. The assessment shall
29 highlight alternative and innovative service delivery models
30 identified through their assessment process.

31 (6) This needs assessment shall be conducted at least once every
32 five years and updated annually. The assessment shall be included
33 in the state plan and shall be provided to the department and to the
34 appropriate committees of the Legislature. The assessment and
35 annual updates shall be made available to the public. The State
36 Council on Developmental Disabilities, in consultation with the
37 department, shall make a recommendation to the Department of
38 Finance as to the level of funding for program development to be
39 included in the Governor's Budget, based upon this needs
40 assessment.

1 (c) Parental fee schedules shall be evaluated pursuant to Section
2 4784 and adjusted annually, *as needed*, by the department, with
3 the approval of the state council. *The July 1, 2009, parental fee*
4 *adjustment shall be exempt from this approval requirement.* Fees
5 for out-of-home care shall bear an equitable relationship to the
6 cost of the care and the ability of the family to pay.

7 (d) In addition to parental fees and General Fund appropriations,
8 the Program Development Fund may be augmented by federal
9 funds available to the state for program development purposes,
10 when these funds are allotted to the Program Development Fund
11 in the state plan. The Program Development Fund is hereby
12 appropriated to the department, and subject to any allocations that
13 may be made in the annual Budget Act. In no event shall any of
14 these funds revert to the General Fund.

15 (e) The department may allocate funds from the Program
16 Development Fund for any legal purpose, provided that requests
17 for proposals and allocations are approved by the state council in
18 consultation with the department, and are consistent with the
19 priorities for program development in the state plan. Allocations
20 from the Program Development Fund shall take into consideration
21 the following factors:

22 (1) The future fiscal impact of the allocations on other state
23 supported services and supports for persons with developmental
24 disabilities.

25 (2) The information on priority services and supports needed,
26 but currently unavailable, submitted by the regional centers.

27 Consistent with the level of need as determined in the state plan,
28 excess parental fees may be used for purposes other than programs
29 specified in subdivision (a) only when specifically appropriated
30 to the State Department of Developmental Services for those
31 purposes.

32 (f) Under no circumstances shall the deposit of federal moneys
33 into the Program Development Fund be construed as requiring the
34 State Department of Developmental Services to comply with a
35 definition of “developmental disabilities” and “services for persons
36 with developmental disabilities” other than as specified in
37 subdivisions (a) and (b) of Section 4512 for the purposes of
38 determining eligibility for developmental services or for allocating
39 parental fees and state general funds deposited in the Program
40 Development Fund.

1 *SEC. 17. Section 4685 of the Welfare and Institutions Code is*
2 *amended to read:*

3 4685. (a) Consistent with state and federal law, the Legislature
4 finds and declares that children with developmental disabilities
5 most often have greater opportunities for educational and social
6 growth when they live with their families. The Legislature further
7 finds and declares that the cost of providing necessary services
8 and supports which enable a child with developmental disabilities
9 to live at home is typically equal to or lower than the cost of
10 providing out-of-home placement. The Legislature places a high
11 priority on providing opportunities for children with developmental
12 disabilities to live with their families, when living at home is the
13 preferred objective in the child's individual program plan.

14 (b) It is the intent of the Legislature that regional centers provide
15 or secure family support services that do all of the following:

16 (1) Respect and support the decisionmaking authority of the
17 family.

18 (2) Be flexible and creative in meeting the unique and individual
19 needs of families as they evolve over time.

20 (3) Recognize and build on family strengths, natural supports,
21 and existing community resources.

22 (4) Be designed to meet the cultural preferences, values, and
23 lifestyles of families.

24 (5) Focus on the entire family and promote the inclusion of
25 children with disabilities in all aspects of school and community.

26 (c) In order to provide opportunities for children to live with
27 their families, the following procedures shall be adopted:

28 (1) The department and regional centers shall give a very high
29 priority to the development and expansion of services and supports
30 designed to assist families that are caring for their children at home,
31 when that is the preferred objective in the individual program plan.
32 This assistance may include, but is not limited to specialized
33 medical and dental care, special training for parents, infant
34 stimulation programs, respite for parents, homemaker services,
35 camping, day care, short-term out-of-home care, child care,
36 counseling, mental health services, behavior modification
37 programs, special adaptive equipment such as wheelchairs, hospital
38 beds, communication devices, and other necessary appliances and
39 supplies, and advocacy to assist persons in securing income

1 maintenance, educational services, and other benefits to which
2 they are entitled.

3 (2) When children with developmental disabilities live with
4 their families, the individual program plan shall include a family
5 plan component which describes those services and supports
6 necessary to successfully maintain the child at home. Regional
7 centers shall consider every possible way to assist families in
8 maintaining their children at home, when living at home will be
9 in the best interest of the child, before considering out-of-home
10 placement alternatives. When the regional center first becomes
11 aware that a family may consider an out-of-home placement, or
12 is in need of additional specialized services to assist in caring for
13 the child in the home, the regional center shall meet with the family
14 to discuss the situation and the family's current needs, solicit from
15 the family what supports would be necessary to maintain the child
16 in the home, and utilize creative and innovative ways of meeting
17 the family's needs and providing adequate supports to keep the
18 family together, if possible.

19 (3) (A) To ensure that these services and supports are provided
20 in the most cost-effective and beneficial manner, regional centers
21 may utilize innovative service-delivery mechanisms, including,
22 but not limited to, vouchers; alternative respite options such as
23 foster families, vacant community facility beds, crisis child care
24 facilities; *group training for parents on behavioral intervention*
25 *techniques in lieu of some or all of the in-home parent training*
26 *component of the behavioral intervention services; purchase of*
27 *neighborhood preschool services and needed qualified personnel*
28 *in lieu of infant development programs;* and alternative child care
29 options such as supplemental support to generic child care facilities
30 and parent child care cooperatives.

31 (B) *Effective July 1, 2009, at the time of development, review,*
32 *or modification of a child's individualized family service plan or*
33 *individual program plan, the regional center shall consider both*
34 *of the following:*

35 (i) *The use of group training for parents on behavioral*
36 *intervention techniques in lieu of some or all of the in-home parent*
37 *training component of the behavioral intervention services.*

38 (ii) *The purchase of neighborhood preschool services and*
39 *needed qualified personnel in lieu of infant development programs.*

1 (4) If the parent of any child receiving services and supports
2 from a regional center believes that the regional center is not
3 offering adequate assistance to enable the family to keep the child
4 at home, the parent may initiate a request for fair hearing as
5 established in this division. A family shall not be required to start
6 a placement process or to commit to placing a child in order to
7 receive requested services.

8 (5) Nothing in this section shall be construed to encourage the
9 continued residency of adult children in the home of their parents
10 when that residency is not in the best interests of the person.

11 (6) When purchasing or providing a voucher for day care
12 services for parents who are caring for children at home, the
13 regional center may pay only the cost of the day care service that
14 exceeds the cost of providing day care services to a child without
15 disabilities. The regional center may pay in excess of this amount
16 when a family can demonstrate a financial need and when doing
17 so will enable the child to remain in the family home.

18 (7) A regional center may purchase or provide a voucher for
19 diapers for children three years of age or older. A regional center
20 may purchase or provide vouchers for diapers under three years
21 of age when a family can demonstrate a financial need and when
22 doing so will enable the child to remain in the family home.

23 *SEC. 18. Section 4686 of the Welfare and Institutions Code is*
24 *amended to read:*

25 ~~4686. (a) Notwithstanding any other provision of law, an~~
26 ~~in-home respite worker may perform gastrostomy care and feeding~~
27 ~~of clients of regional centers, after successful completion of training~~
28 ~~as provided in this section. Notwithstanding any other provision~~
29 ~~of law or regulation to the contrary, an in-home respite worker~~
30 ~~who is not a licensed health care professional but who is trained~~
31 ~~by a licensed health care professional may perform incidental~~
32 ~~medical services for consumers of regional centers with stable~~
33 ~~conditions, after successful completion of training as provided in~~
34 ~~this section. Incidental medical services provided by trained~~
35 ~~in-home respite workers shall be limited to the following:~~

36 (1) *Colostomy and ileostomy: changing bags and cleaning*
37 *stoma.*

38 (2) *Urinary catheter: emptying and changing bags and care of*
39 *catheter site.*

1 (3) *Gastrostomy: feeding, hydration, cleaning stoma, and adding*
2 *medication per physician's or nurse practitioner's orders for the*
3 *routine medication of patients with stable conditions.*

4 (b) In order to be eligible to receive training for purposes of this
5 section, an in-home respite worker shall submit to the trainer proof
6 of successful completion of a first aid course and successful
7 completion of a cardiopulmonary resuscitation course within the
8 preceding year.

9 (c) ~~The training in gastrostomy care and feeding incidental~~
10 *medical services* required under this section shall be provided by
11 physicians or registered nurses. *Training in gastrostomy services*
12 *shall be provided by a physician or registered nurse, or through*
13 a gastroenterology or surgical center in an acute care hospital, as
14 defined in subdivision (a) of Section 1250 of the Health and Safety
15 Code, which meets California Children Services' Program
16 standards for centers for children with congenital gastrointestinal
17 disorders, or comparable standards for adults, or by a physician
18 or registered nurse who has been certified to provide training by
19 the center.

20 (d) ~~The gastroenterology or surgical center~~ *in-home respite*
21 *agency* providing the training shall develop a training protocol
22 which shall be submitted for approval to the State Department of
23 Developmental Services. The department shall approve those
24 protocols ~~which~~ *that* specifically address ~~all~~ *both* of the following:

25 (1) *A description of the incidental medical services to be*
26 *provided by trained in-home respite workers.*

27 (2) *A description of the protocols by which the training will be*
28 *provided. Protocols shall include a demonstration of the following*
29 *skills by the trainee:*

30 ~~(1)~~
31 (A) Care of the gastrostomy, *colostomy, ileostomy, or urinary*
32 *catheter site.*

33 ~~(2)~~
34 (B) Performance of gastrostomy tube feeding, *changing bags*
35 *and cleaning stoma of colostomy or ileostomy sites, and emptying*
36 *and changing urinary catheter bags.*

37 ~~(3)~~
38 (C) Identification of, and appropriate response to, problems and
39 complications associated with gastrostomy care and feeding,
40 *colostomy and ileostomy care, and care of urinary catheter sites.*

1 ~~(4)~~

2 (D) Continuing education requirements.

3 (e) Training by the gastroenterology or surgical center, or the
4 certified physician or registered nurse, shall be done in accordance
5 with the approved training protocol. Training of in-home respite
6 workers shall be specific to the individual needs of the
7 ~~developmentally disabled regional center client receiving the~~
8 ~~gastrostomy feeding regional center consumer receiving the~~
9 ~~incidental medical service~~ and shall be in accordance with orders
10 from the ~~client's consumer's~~ treating physician or surgeon.

11 (f) The ~~primary care physician treating physician or surgeon~~
12 shall give assurances to the regional center that the patient's
13 condition is stable prior to the regional center's purchasing ~~in-home~~
14 ~~gastrostomy care for the client incidental medical services for the~~
15 ~~consumer~~ through an appropriately trained respite worker.

16 (g) Prior to the purchase of ~~in-home gastrostomy care incidental~~
17 ~~medical services~~ through a trained respite worker, the regional
18 center shall do all of the following:

19 (1) Ensure that a nursing assessment of the ~~client consumer,~~
20 performed by a registered nurse, is conducted to determine whether
21 an in-home respite worker, licensed vocational nurse, or registered
22 nurse may perform the services.

23 (2) Ensure that a nursing assessment of the home has been
24 conducted to determine whether ~~gastrostomy care and feeding~~
25 ~~incidental medical services~~ can appropriately be provided in that
26 setting.

27 (h) The agency providing in-home respite services shall do all
28 of the following:

29 (1) Ensure adequate training of the in-home respite worker.

30 (2) Ensure that telephone backup and emergency consultation
31 by a registered nurse or physician is available.

32 (3) Develop a plan for ~~care of the gastrostomy site and for~~
33 ~~gastrostomy tube feeding specific to the incidental medical services~~
34 ~~provided~~ to be carried out by the respite worker.

35 (4) Ensure that the in-home respite worker and the ~~gastrostomy~~
36 ~~incidental medical services~~ provided by the respite worker are
37 adequately supervised by a registered nurse.

38 (i) *Notwithstanding any other provision of law or regulation to*
39 ~~the contrary, the hourly rate for an in-home respite agency shall~~
40 ~~be increased to provide a fifty cent (\$.50) per hour wage increase~~

1 *and an eight-cent (\$.08) per hour benefit increase for the hours*
2 *the in-home respite agency is providing incidental medical services.*

3 *(j) To expand the availability of trained in-home respite agency*
4 *staff, a regional center may reimburse the in-home respite agency*
5 *up to two hundred dollars (\$200) semiannually, for the provision*
6 *of training pursuant to subdivision (c).*

7 *(i)*

8 *(k) For purposes of this section, “in-home respite worker” means*
9 *an individual employed by an agency which is vendored by a*
10 *regional center to provide in-home respite services. These agencies*
11 *include, but are not limited to, in-home respite services agencies,*
12 *home health agencies, or other agencies providing these services.*

13 *SEC. 19. Section 4686.2 is added to the Welfare and Institutions*
14 *Code, to read:*

15 *4686.2. (a) Effective July 1, 2009, notwithstanding any other*
16 *provision of law or regulation to the contrary, any vendor who*
17 *provides applied behavioral analysis (ABA) services, or intensive*
18 *behavioral intervention services or both, as defined in subdivision*
19 *(d), shall:*

20 *(1) Conduct a behavioral assessment of each consumer to whom*
21 *the vendor provides these services.*

22 *(2) Design an intervention plan that shall include the service*
23 *type, number of hours and parent participation needed to achieve*
24 *the consumer’s goals and objectives, as set forth in the consumer’s*
25 *individual program plan (IPP) or individualized family service*
26 *plan (IFSP). The intervention plan shall also set forth the frequency*
27 *at which the consumer’s progress shall be evaluated and reported.*

28 *(3) Provide a copy of the intervention plan to the regional center*
29 *for review and consideration by the planning team members.*

30 *(b) Effective July 1, 2009, notwithstanding any other provision*
31 *of law or regulation to the contrary, regional centers shall:*

32 *(1) Only purchase ABA services or intensive behavioral*
33 *intervention services that reflect evidence-based practices, promote*
34 *positive social behaviors, and ameliorate behaviors that interfere*
35 *with learning and social interactions.*

36 *(2) Only purchase ABA or intensive behavioral intervention*
37 *services when the parent or parents of minor consumers receiving*
38 *services participate in the intervention plan for the consumers,*
39 *given the critical nature of parent participation to the success of*
40 *the intervention plan.*

1 (3) *Not purchase either ABA or intensive behavioral intervention*
2 *services for purposes of providing respite, day care, or school*
3 *services.*

4 (4) *Discontinue purchasing ABA or intensive behavioral*
5 *intervention services for a consumer when the consumer's*
6 *treatment goals and objectives, as described under subdivision*
7 *(a), are achieved. ABA or intensive behavioral intervention services*
8 *shall not be discontinued until the goals and objectives are*
9 *reviewed and updated as required in paragraph (5) and shall be*
10 *discontinued only if those updated treatment goals and objectives*
11 *do not require ABA or intensive behavioral intervention services.*

12 (5) *For each consumer, evaluate the vendor's intervention plan*
13 *and number of service hours for ABA or intensive behavioral*
14 *intervention no less than every six months, consistent with*
15 *evidence-based practices. If necessary, the intervention plan's*
16 *treatment goals and objectives shall be updated and revised.*

17 (6) *Not reimburse a parent for participating in a behavioral*
18 *services treatment program.*

19 (c) *For consumers receiving ABA or behavioral intervention*
20 *services on July 1, 2009, as part of their IPP or IFSP, subdivision*
21 *(b) shall apply on August 1, 2009.*

22 (d) *For purposes of this section the following definitions shall*
23 *apply:*

24 (1) *"Applied behavioral analysis" means the design,*
25 *implementation, and evaluation of systematic instructional and*
26 *environmental modifications to promote positive social behaviors*
27 *and reduce or ameliorate behaviors which interfere with learning*
28 *and social interaction.*

29 (2) *"Intensive behavioral intervention" means any form of*
30 *applied behavioral analysis that is comprehensive, designed to*
31 *address all domains of functioning, and provided in multiple*
32 *settings for no more than 40 hours per week, across all settings,*
33 *depending on the individual's needs and progress. Interventions*
34 *can be delivered in a one-to-one ratio or small group format, as*
35 *appropriate.*

36 (3) *"Evidence-based practice" means a decisionmaking process*
37 *that integrates the best available scientifically rigorous research,*
38 *clinical expertise, and individual's characteristics. Evidence-based*
39 *practice is an approach to treatment rather than a specific*
40 *treatment. Evidence-based practice promotes the collection,*

1 interpretation, integration, and continuous evaluation of valid,
2 important, and applicable individual- or family-reported,
3 clinically-observed, and research-supported evidence. The best
4 available evidence, matched to consumer circumstances and
5 preferences, is applied to ensure the quality of clinical judgments
6 and facilitates the most cost-effective care.

7 (4) “Parent participation” shall include, but shall not be limited
8 to, the following meanings:

9 (A) Completion of group instruction on the basics of behavior
10 intervention.

11 (B) Implementation of intervention strategies, according to the
12 intervention plan.

13 (C) If needed, collection of data on behavioral strategies and
14 submission of that data to the provider for incorporation into
15 progress reports.

16 (D) Participation in any needed clinical meetings.

17 (E) Purchase of suggested behavior modification materials or
18 community involvement if a reward system is used.

19 SEC. 20. Section 4686.5 is added to the Welfare and Institutions
20 Code, to read:

21 4686.5. (a) Effective July 1, 2009, notwithstanding any other
22 provision of law or regulation to the contrary, all of the following
23 shall apply:

24 (1) A regional center may only purchase respite services when
25 the care and supervision needs of a consumer exceed that of an
26 individual of the same age without developmental disabilities.

27 (2) A regional center shall not purchase more than 21 days of
28 out-of-home respite services in a fiscal year nor more than 90
29 hours of in-home respite services in a quarter, for a consumer.

30 (3) (A) A regional center may grant an exemption to the
31 requirements set forth in paragraphs (1) and (2) if it is
32 demonstrated that the intensity of the consumer’s care and
33 supervision needs are such that additional respite is necessary to
34 maintain the consumer in the family home, or there is an
35 extraordinary event that impacts the family member’s ability to
36 meet the care and supervision needs of the consumer.

37 (B) For purposes of this section, “family member” means an
38 individual who:

39 (i) Has a consumer residing with him or her.

1 (ii) *Is responsible for the 24-hour care and supervision of the*
2 *consumer.*

3 (iii) *Is not a licensed or certified residential care facility or*
4 *foster family home receiving funds from any public agency or*
5 *regional center for the care and supervision provided.*
6 *Notwithstanding this provision, a relative who receives foster care*
7 *funds shall not be precluded from receiving respite.*

8 (4) *A regional center shall not purchase day care services to*
9 *replace or supplant respite services. For purposes of this section,*
10 *“day care” is defined as regularly provided care, protection, and*
11 *supervision of a consumer living in the home of his or her parents,*
12 *for periods of less than 24 hours per day, while the parents are*
13 *engaged in employment outside of the home or educational*
14 *activities leading to employment, or both.*

15 (5) *A regional center shall only consider in-home supportive*
16 *services a generic resource when the approved in-home supportive*
17 *services meets the respite need as identified in the consumer’s*
18 *individual program plan (IPP) or individualized family service*
19 *plan (IFSP).*

20 (b) *For consumers receiving respite services on July 1, 2009,*
21 *as part of their IPP or IFSP, subdivision (a) shall apply on August*
22 *1, 2009.*

23 (c) *This section shall remain in effect until implementation of*
24 *the individual choice budget pursuant to Section 4648.6 and*
25 *certification by the Director of the Department of Developmental*
26 *Services that the individual choice budget has been implemented*
27 *and will result in state budget savings sufficient to offset the costs*
28 *associated with the repeal of this section. This section shall be*
29 *repealed on the date of certification.*

30 SEC. 21. *Section 4688.1 is added to the Welfare and Institutions*
31 *Code, to read:*

32 4688.1. (a) *Notwithstanding any other provision of law or*
33 *regulation to the contrary, vendors of behavior management,*
34 *activity center, and adult development center day programs, social*
35 *recreation programs, socialization training programs, community*
36 *integration training programs, community activities support*
37 *programs, creative art programs, and work activity programs shall*
38 *offer an alternative senior program component focused on the*
39 *needs of individuals with developmental disabilities who are over*

1 50 years of age, at a rate not to exceed the lesser of thirty-five
2 dollars (\$35) per day or the vendor's existing daily rate.

3 (1) The alternative senior program component shall be provided
4 at a ratio of no more than eight consumers to one staff member.

5 (2) Consistent with the intent of the Lanterman Developmental
6 Disabilities Services Act, the alternative senior program component
7 shall be offered within the provider's existing vendored capacity
8 as reflected in its program design or licensed capacity.

9 (b) Effective July 1, 2009, at the time of development, review,
10 or modification of an eligible consumer's individual program plan,
11 regional centers, as appropriate, shall provide information about
12 and offer an alternative senior program. The alternative senior
13 program shall be offered to eligible consumers who want to
14 transition to a program component focused on the needs and
15 interests of seniors.

16 SEC. 22. Section 4688.2 is added to the Welfare and Institutions
17 Code, to read:

18 4688.2. (a) Notwithstanding any other provision of law or
19 regulation to the contrary, vendors of behavior management,
20 activity center, and adult development center adult day programs,
21 community integration training programs, and community activities
22 support services programs shall offer an alternative customized
23 program component with an appropriate staffing component to
24 meet individualized consumer needs.

25 (1) The alternative customized program component shall be
26 offered within the provider's existing vendored capacity, as
27 reflected in its program design or licensed capacity.

28 (2) The regional center shall fund customized programs based
29 on the vendor's existing rate and only fund those hours provided.

30 (b) Effective July 1, 2009, at the time of development, review,
31 or modification of a consumer's individual program plan, regional
32 centers, as appropriate, shall provide information about and make
33 available the customized program option.

34 (1) The alternative customized program component shall be
35 offered to individuals with developmental disabilities who want a
36 program focused on their individualized needs and interests to
37 develop or maintain employment or volunteer activities in lieu of
38 their current program.

1 (2) *Total hours of service for this alternative customized*
2 *program shall range between 20 and 80 hours per month, per*
3 *person, depending on the support needs of the individual.*

4 SEC. 23. *Section 4688.3 is added to the Welfare and Institutions*
5 *Code, to read:*

6 4688.3. (a) *The State Department of Health Care Services and*
7 *the department shall jointly seek a federal Centers for Medicare*
8 *and Medicaid Services' (CMS) approved 1915(i) state plan*
9 *amendment to expand federal financial participation for services*
10 *to persons with developmental disabilities provided by regional*
11 *centers pursuant to Division 4.5 (commencing with Section 4500).*

12 (b) *Services provided pursuant to this section shall be rendered*
13 *under the administrative direction of the department. The*
14 *department may issue program directives to regional centers for*
15 *implementing the approved state plan amendment.*

16 (c) *If CMS approves the state plan amendment pursuant to*
17 *Section 1915(i) of the Social Security Act, the Director of Health*
18 *Care Services shall execute a declaration stating that this approval*
19 *has been granted. The director shall retain the declaration and*
20 *this section shall be implemented commencing on the date that the*
21 *director executes a declaration pursuant to this subdivision.*

22 (d) *The department may adopt regulations to implement this*
23 *section and any sections in Division 4.5 (commencing with Section*
24 *4500) necessary to implement the terms of the 1915(i) state plan*
25 *amendment. The adoption, amendment, repeal, or readoption of*
26 *a regulation authorized by this section is deemed to be necessary*
27 *for the immediate preservation of the public peace, health and*
28 *safety, or general welfare, for purposes of Sections 11346.1 and*
29 *11349.9 of the Government Code, and the department is hereby*
30 *exempted from that requirement. For purposes of subdivision (e)*
31 *of Section 11346.1 of the Government Code, the 120-day period,*
32 *as applicable to the effective period of an emergency regulatory*
33 *action and submission of specified materials to the Office of*
34 *Administrative Law, is hereby extended to 180 days.*

35 (e) *The department shall adopt regulations to implement the*
36 *terms of the 1915(i) state plan amendment through the regular*
37 *rulemaking process pursuant to Sections 11346 and 11349.1 of*
38 *the Government Code within 18 months of the adoption of*
39 *emergency regulations pursuant to subdivision (d).*

1 (f) *The department shall consult with stakeholders, as defined*
2 *in subdivision (k) of Section 4512.*

3 (g) *The State Department of Health Care Services shall post a*
4 *copy of, or a link to, the approved state plan amendment and any*
5 *State Department of Developmental Services regulations or*
6 *program directives, or both, issued pursuant to this section on its*
7 *Internet Web site.*

8 SEC. 24. *Section 4689 of the Welfare and Institutions Code is*
9 *amended to read:*

10 4689. Consistent with state and federal law, the Legislature
11 places a high priority on providing opportunities for adults with
12 developmental disabilities, regardless of the degree of disability,
13 to live in homes that they own or lease with support available as
14 often and for as long as it is needed, when that is the preferred
15 objective in the individual program plan. In order to provide
16 opportunities for adults to live in their own homes, the following
17 procedures shall be adopted:

18 (a) The department and regional centers shall ensure that
19 supported living arrangements adhere to the following principles:

20 (1) Consumers shall be supported in living arrangements which
21 are typical of those in which persons without disabilities reside.

22 (2) The services or supports that a consumer receives shall
23 change as his or her needs change without the consumer having
24 to move elsewhere.

25 (3) The consumer's preference shall guide decisions concerning
26 where and with whom he or she lives.

27 (4) Consumers shall have control over the environment within
28 their own home.

29 (5) The purpose of furnishing services and supports to a
30 consumer shall be to assist that individual to exercise choice in his
31 or her life while building critical and durable relationships with
32 other individuals.

33 (6) The services or supports shall be flexible and tailored to a
34 consumer's needs and preferences.

35 (7) Services and supports are most effective when furnished
36 where a person lives and within the context of his or her day-to-day
37 activities.

38 (8) Consumers shall not be excluded from supported living
39 arrangements based solely on the nature and severity of their
40 disabilities.

1 (b) Regional centers may contract with agencies or individuals
2 to assist consumers in securing their own homes and to provide
3 consumers with the supports needed to live in their own homes.

4 (c) The range of supported living services and supports available
5 include, but are not limited to, assessment of consumer needs;
6 assistance in finding, modifying and maintaining a home;
7 facilitating circles of support to encourage the development of
8 unpaid and natural supports in the community; advocacy and
9 self-advocacy facilitation; development of employment goals;
10 social, behavioral, and daily living skills training and support;
11 development and provision of 24-hour emergency response
12 systems; securing and maintaining adaptive equipment and
13 supplies; recruiting, training, and hiring individuals to provide
14 personal care and other assistance, including in-home supportive
15 services workers, paid neighbors, and paid roommates; providing
16 respite and emergency relief for personal care attendants; and
17 facilitating community participation. Assessment of consumer
18 needs may begin before 18 years of age to enable the consumer to
19 move to his or her own home when he or she reaches 18 years of
20 age.

21 (d) Regional centers shall provide information and education
22 to consumers and their families about supported living principles
23 and services.

24 (e) Regional centers shall monitor and ensure the quality of
25 services and supports provided to individuals living in homes that
26 they own or lease. Monitoring shall take into account all of the
27 following:

28 (1) Adherence to the principles set forth in this section.

29 (2) Whether the services and supports outlined in the consumer's
30 individual program plan are congruent with the choices and needs
31 of the individual.

32 (3) Whether services and supports described in the consumer's
33 individual program plan are being delivered.

34 (4) Whether services and supports are having the desired effects.

35 (5) Whether the consumer is satisfied with the services and
36 supports.

37 (f) *The planning team, established pursuant to subdivision (j)*
38 *of Section 4512, for a consumer receiving supported living services*
39 *shall confirm that all appropriate and available sources of natural*

1 *and generic supports have been utilized to the fullest extent possible*
2 *for that consumer.*

3 *(g) Regional centers shall utilize the same supported living*
4 *provider for consumers who reside in the same domicile, provided*
5 *that each individual consumer's particular needs can still be met*
6 *pursuant to his or her individual program plans.*

7 *(h) Rent, mortgage, and lease payments of a supported living*
8 *home and household expenses shall be the responsibility of the*
9 *consumer and any roommate who resides with the consumer.*

10 *(i) A regional center shall not make rent, mortgage, or lease*
11 *payments on a supported living home, or pay for household*
12 *expenses of consumers receiving supported living services, except*
13 *under the following circumstances:*

14 *(1) If all of the following conditions are met, a regional center*
15 *may make rent, mortgage, or lease payments as follows:*

16 *(A) The regional center executive director verifies in writing*
17 *that making the rent, mortgage, or lease payments or paying for*
18 *household expenses is required to meet the specific care needs*
19 *unique to the individual consumer as set forth in an addendum to*
20 *the consumer's individual program plan, and is required when a*
21 *consumer's demonstrated medical, behavioral, or psychiatric*
22 *condition presents a health and safety risk to himself or herself,*
23 *or another.*

24 *(B) During the time period that a regional center is making*
25 *rent, mortgage, or lease payments, or paying for household*
26 *expenses, the supported living services vendor shall assist the*
27 *consumer in accessing all sources of generic and natural supports*
28 *consistent with the needs of the consumer.*

29 *(C) The regional center shall not make rent, mortgage, or lease*
30 *payments on a supported living home or pay for household*
31 *expenses for more than six months, unless the regional center finds*
32 *that it is necessary to meet the individual consumer's particular*
33 *needs pursuant to the consumer's individual program plan. The*
34 *regional center shall review a finding of necessity on a quarterly*
35 *basis and the regional center executive director shall annually*
36 *verify in an addendum to the consumer's individual program plan*
37 *that the requirements set forth in subparagraph (A) continue to*
38 *be met.*

39 *(2) A regional center that has been contributing to rent,*
40 *mortgage, or lease payments or paying for household expenses*

1 prior to July 1, 2009, shall at the time of development, review, or
2 modification of a consumer's individual program plan determine
3 if the conditions in paragraph (1) are met. If the planning team
4 determines that these contributions are no longer appropriate
5 under this section, a reasonable time for transition, not to exceed
6 six months, shall be permitted.

7 (j) All paid roommates and live-in support staff in supported
8 living arrangements in which regional centers have made rent,
9 mortgage, or lease payments, or have paid for household expenses
10 pursuant to subdivision (i) shall pay their share of the rent,
11 mortgage, or lease payments or household expenses for the
12 supported living home, subject to the requirements of Industrial
13 Welfare Commission Order No. 15-2001 and the Housing Choice
14 Voucher Program, as set forth in Section 1437f of Title 42 of the
15 United States Code.

16 (k) Regional centers shall ensure that the supported living
17 services vendors' administrative costs are necessary and
18 reasonable, given the particular services that they are providing
19 and the number of consumers to whom the vendor provides
20 services. Administrative costs shall be limited to allowable costs
21 for community-based day programs, as defined in Section 57434
22 of Title 17 of the California Code of Regulations, or its successor.

23 (l) Regional centers shall ensure that the most cost-effective of
24 the rate methodologies is utilized to determine the negotiated rate
25 for vendors of supported living services, consistent with Section
26 4689.8 and Title 17 of the California Code of Regulations.

27 (m) For purposes of this section, "household expenses" means
28 general living expenses and includes, but is not limited to, utilities
29 paid and food consumed within the home.

30 (n) A supported living services provider shall provide assistance
31 to a consumer who is a Medi-Cal beneficiary in applying for
32 in-home supportive services, as set forth in Section 12300, within
33 five days of the consumer moving into a supported living services
34 arrangement.

35 SEC. 25. Section 4689.05 is added to the Welfare and
36 Institutions Code, to read:

37 4689.05. (a) A regional center shall not purchase supportive
38 services, as defined in Section 12300, for a consumer who meets
39 the criteria to receive, but declines to apply for, in-home supportive

1 services (IHSS) benefits, as set forth in Section 12300, except as
2 set forth in subdivision (d).

3 (b) Consistent with Section 4648, a regional center shall not
4 purchase supported living services for a consumer to supplant
5 IHSS.

6 (c) Between the date that a consumer applies for IHSS and the
7 date that a consumer's application for IHSS is approved, a regional
8 center shall not purchase supportive services for the consumer at
9 a rate that exceeds the IHSS hourly rate, which includes the IHSS
10 provider hourly wage, the provider's hourly payroll taxes, and the
11 hourly administrative costs, for the county in which the consumer
12 resides.

13 (d) A regional center executive director may waive the
14 requirements set forth in subdivision (a) if the executive director
15 finds that extraordinary circumstances warrant the waiver, and
16 that a finding is documented in an addendum to the consumer's
17 individual program plan.

18 SEC. 26. Section 4692 is added to the Welfare and Institutions
19 Code, to read:

20 4692. (a) Effective August 1, 2009, subject to subdivisions (c)
21 and (e), regional centers shall not compensate a work activity
22 program, activity center, adult development center, behavior
23 management program, social recreation program, adaptive skills
24 trainer, infant development program, program support group (day
25 service), socialization training program, client/parent support
26 behavior intervention training program, community integration
27 training program, community activities support service, or creative
28 arts program, as defined in Title 17 of the California Code of
29 Regulations, for providing any service to a consumer on any of
30 the following holidays:

31 (1) January 1.

32 (2) The third Monday in January.

33 (3) The third Monday in February.

34 (4) March 31.

35 (5) The last Monday in May.

36 (6) July 4.

37 (7) The first Monday in September.

38 (8) November 11.

39 (9) Thanksgiving Day.

40 (10) December 25.

1 *(11) The four business days between December 25 and January*
2 *1.*

3 *(b) Effective August 1, 2009, subject to subdivisions (c) and (e),*
4 *regional centers shall not compensate a transportation*
5 *vendor/family member, transportation company,*
6 *transportation/additional component vendor, transportation broker,*
7 *transportation assistant/vendor, transportation vendor/auto driver,*
8 *or transportation vendor/public or rental car agency or taxi, in*
9 *accordance with Title 17 of the California Code of Regulations,*
10 *for transporting any consumer to receive services from any of the*
11 *vendors specified in subdivision (a) for any of the holidays set*
12 *forth in paragraphs (1) to (11), inclusive, of subdivision (a).*

13 *(c) If a holiday listed in this section falls on a Saturday or a*
14 *Sunday, the following Monday shall be deemed to be the holiday*
15 *in lieu of the day observed.*

16 *(d) Contracts between the vendors described in this section and*
17 *regional centers shall reflect the holiday closures set forth in this*
18 *section and shall be renegotiated accordingly, as necessary.*

19 *(e) The department may adjust the holidays set forth in*
20 *subdivision (a) through a program directive. This directive shall*
21 *be provided to the regional centers and posted on the department's*
22 *Internet Web site at least 60 days prior to the effective date of the*
23 *change in holiday.*

24 *SEC. 27. Section 4784 of the Welfare and Institutions Code is*
25 *amended to read:*

26 4784. (a) The Director of Developmental Services shall
27 establish, annually review, and adjust as needed, a schedule of
28 parental fees for services received through the regional centers.
29 *This Effective July 1, 2009, this schedule shall be revised to reflect*
30 *changes in economic conditions that affect parents' ability to pay*
31 *the fee, but not to exceed an inflationary factor as determined by*
32 *the department.*

33 (b) The parental fee schedule established pursuant to this section
34 shall be exempt from Chapter 3.5 (commencing with Section
35 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

36 (c) In establishing the amount parents shall pay, the director
37 shall take into account all of the following factors:

38 ~~(1) Medical expenses incurred prior to regional center care.~~

39 ~~(2) Whether the child is living at home.~~

~~(3) Parental payments for medical expenses, clothing, incidentals, and other items considered necessary to the normal rearing of a child.~~

~~(4) Transportation expenses incurred in visiting a child.~~

~~(d) All parental payments shall be deposited in the Program Development Fund established in Chapter 6 (commencing with Section 4670) to provide resources needed to initiate new programs, consistent with approved priorities for program development in the state plan.~~

(1) The current cost of caring for a child at home, as determined by the most recent data available from the United States Department of Agriculture's survey on the cost of raising a child in California, adjusted for the Consumer Price Index (CPI) from the survey date to the date of payment adjustment.

(2) Medical expenses incurred prior to regional center care.

(3) Whether the child is living at home.

(4) Parental payments for medical expenses, clothing, incidentals, and other items considered necessary for the normal rearing of a child.

(5) Transportation expenses incurred in visiting a child.

(d) The parental fee schedule shall exempt families with an income below the federal poverty level from assessment and payment of the parental fee.

(e) (1) The adjusted fee shall be assessed in full for children, when the out-of-home placement commences on or after July 1, 2009.

(2) For children placed out-of-home prior to July 1, 2009, the department shall determine the increase in the parental fee above the amount assessed using the fee schedule in effect on June 30, 2009. This fee increase shall be implemented over three years, with one-third of the increase added to the fee on July 1, 2009, one-third of the increase added to the fee on July 1, 2010, and the final third added to the fee on July 1, 2011.

(f) Notwithstanding any other provision of law or regulation to the contrary, commencing July 1, 2009, all fees collected shall be remitted to the State Treasury to be deposited as follows:

(1) Fees collected up to the amount that would be assessed using the fee schedule in effect on June 30, 2009, shall be deposited into the Program Development Fund established in Chapter 6 (commencing with Section 4670) to provide resources needed to

1 *initiate new programs, consistent with approved priorities for*
2 *program development in the state plan.*

3 *(2) Fees collected using the July 1, 2009, schedule that are*
4 *greater than the amount that would have been assessed using the*
5 *fee schedule in effect on June 30, 2009, shall be deposited into the*
6 *Program Development Fund and shall be available for expenditure*
7 *by the department to offset General Fund costs.*

8 *SEC. 28. Section 7502.5 of the Welfare and Institutions Code*
9 *is amended to read:*

10 *7502.5. The total number of developmental center residents in*
11 *the secure treatment facility at Porterville Developmental Center,*
12 *including those residents receiving services in the Porterville*
13 *Developmental Center transition treatment program, shall not*
14 *exceed 297.*

15 *SEC. 29. (a) The State Department of Developmental Services*
16 *shall provide information to the Assembly Committee on Budget*
17 *and the Senate Committee on Budget and Fiscal Review during*
18 *budget hearings for the 2010–11 fiscal year regarding the effect*
19 *on the developmental service system of the specific cost*
20 *containment measures implemented to achieve up to three hundred*
21 *thirty-four million dollars (\$334,000,000) in General Fund*
22 *reductions for the 2009–10 fiscal year pursuant to Item*
23 *4300-101-0001 of Section 2.00 of the Budget Act of 2009.*

24 *(b) The department shall continue to convene, as appropriate,*
25 *a stakeholder review process to obtain information and comments*
26 *about implementation of the cost containment measures and their*
27 *effect on the developmental service system. The stakeholder review*
28 *process shall include statewide organizations representing the*
29 *interests of consumers, family members, service providers, and*
30 *statewide advocacy organizations, as well as policy and fiscal staff*
31 *of the Legislature.*

32 *SEC. 30. This act addresses the fiscal emergency declared by*
33 *the Governor by proclamation on July 1, 2009, pursuant to*
34 *subdivision (f) of Section 10 of Article IV of the California*
35 *Constitution.*

36 *SEC. 31. This act is an urgency statute necessary for the*
37 *immediate preservation of the public peace, health, or safety within*
38 *the meaning of Article IV of the Constitution and shall go into*
39 *immediate effect. The facts constituting the necessity are:*

1 *In order to make the necessary statutory changes to implement*
2 *the Budget Act of 2009 at the earliest possible time, it is necessary*
3 *that this act take effect immediately.*

4 ~~SECTION 1. It is the intent of the Legislature to enact statutory~~
5 ~~changes relating to the Budget Act of 2009.~~

6 ~~SEC. 2. This act addresses the fiscal emergency declared by~~
7 ~~the Governor by proclamation on July 1, 2009, pursuant to~~
8 ~~subdivision (f) of Section 10 of Article IV of the California~~
9 ~~Constitution.~~

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